SENATE—*Tuesday, July 12, 1983*

(Legislative day of Monday, July 11, 1983)

The Senate met at 10:30 a.m., on the expiration of the recess, and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

Righteous God of wisdom, truth and power, grant to the Senators grace to measure up to the challenge which confronts our Nation and the world. Give to them and their hard-working staffs special wisdom as they process confusing information regarding Central America and the Middle East. Help them sort out conflicting economic and sociological theories as they set the Nation on course which is responsive to the many needs and demands of the poor, the elderly, the unemployed and the special interests which clamor for attention. Lead us all, Lord, in the way of truth, righteousness, and justice. We pray in the name of Him who is truth and light incarnate. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

THE JOURNAL

Mr. STEVENS. Mr. President, I ask unanimous consent that the Journal of proceedings to date be approved.

The PRESIDING OFFICER (Mr. RUDMAN). Without objection, it is so ordered.

RESERVATION OF LEADERSHIP TIME

Mr. STEVENS. Mr. President, I ask unanimous consent that the leader's time on this side be reserved until after the special orders.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I make the same request as the distinguished acting majority leader with reference to my time under the standing order.

The PRESIDING OFFICER. Without objection, it is so ordered.

TENNESSEE LEADS THE NATION IN FULLY OBLIGATING 1983 HIGHWAY FUNDS

Mr. BAKER. Mr. President, I should like to note today what I believe is a significant accomplishment by the State of Tennessee and its department of transportation. As of the last week in June, Tennessee has fully obligated its 1983 Federal highway moneys. This means that within the first 9 months of the fiscal year, the Tennessee Department of Transportation has obligated $254 million for planning, construction, and repair on Federal highway projects.

There is no doubt that the 5-cents-per-gallon gas tax bill has had a beneficial impact. During consideration of the 1982 gas tax legislation concerns were raised over the ability of the States to obligate the increased Federal dollars in 1983. Tennessee received an additional $100 million in obligation ceiling in fiscal year 1983 and has been able to obligate all of that money 3 months before the end of the fiscal year. I understand that Georgia, Virginia, Minnesota, South Dakota, and Florida have all obligated over 80 percent of their funds.

What does all this mean to the State of Tennessee? It means increased road construction and related industry jobs. It means new and improved roads.

I am also pleased to note that this increased activity has been accomplished by State Transportation Commissioner Bob Farris without increased administrative and staff expenses. The department is currently operating with 2,000 fewer employees than in 1980, and for the first time in its history, it is handling over 400 individual highway projects. This number may rise to 500 by the end of the year.

The Tennessee Department of Transportation and its commissioner are to be commended for their efficient work in obligating these highway funds. They have set an example for the efficient use of sparse, but essential Federal dollars.

IMPROVED ECONOMIC CONDITIONS IN TENNESSEE TRI-CITIES AREA

Mr. BAKER. Mr. President, on Friday, July 1, 1983, an editorial appeared in the Johnson City Press-Chronicle in Tennessee remarking on the improved economic conditions in the tricities area. I am obviously pleased at this report, and I ask unanimous consent that the editorial be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Johnson City (Tenn.) Press-Chronicle, July 1, 1983]

AREA'S ECONOMY PERKING UP

Recessions have come along several times over the past quarter of a century.

And it had been said that the Tri-Cities area usually felt them later than the rest of the country, and got out of them later, too.

But maybe those days are over. First Tennessee Bank, largest holding company in the state, reports that the Tri-Cities area is the only metropolitan area of Tennessee to show higher employment in the first quarter of 1983 over the first quarter of 1982.

Non-agricultural employment in the area has gained 8 percent over last year's first quarter, First Tennessee's economists report.

Moreover, home building seems to be revived, along with a broad area of the construction industry. Retail sales are up.

And Eddie Williams, executive director of the Johnson City/Washington County Area Industrial Commission, reports a spurt in inquiries from prospective new industries.

Statewide, the employment figures this week for May showed a drop of half a percentage point in the jobless, third straight month the figure had declined.

The economy seems to be perking again locally, perhaps not yet back to the boom of a couple of years back—but definitely on the rise.

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, it is my understanding that there are three special orders.

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. There is a period provided for the transaction of routine morning business during which Senators may speak therein for not to exceed 3 minutes until 11:50 a.m.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF SENATOR PROXMIRE

Mr. PROXMIRE. Mr. President, I understand I have a 15-minute special order, is that correct?

● This "bullet" symbol identifies statements or insertions which are not spoken by the Member on the floor.

The PRESIDING OFFICER. The Senator is correct. Without objection, the Senator may speak out of order. Under the previous order, the Senator from Wisconsin is recognized for a period not to exceed 15 minutes.

Mr. PROXMIRE. I thank the Chair.

CHANCES OF NUCLEAR WAR: 50–50 IN NEXT 20 YEARS

Mr. PROXMIRE. Mr. President, consider a few of the obvious developments that could start nuclear war and the likelihood of each: First, a planned, premeditated first strike by the Soviet Union. Chances probably less than 1 in 1,000 in the next year or so. As the years go by the technology on both sides improves those long odds will shorten. Why are the odds against such a strike so long now? Because our deterrent for the time being is so imposing and sure. Such a strike by the Soviets would under present circumstances simply provide a double suicide. We would be dead. So would they. But 20 years from now? I will get to that later.

PROLIFERATION

Second, what are the odds on a nuclear war developing from the proliferation of nuclear weapons with more and more nations having the power to mount a devastating nuclear attack? The immediate likelihood of such a nuclear castastrophe in the next year or two are probably less than 1 in 100, but over a 10- or 20-year period those odds drop very sharply to 1 in 5 or less. Consider what an inviting target a little, concentrated country like Israel could become if Syria or an even more radicalized PLO should get nuclear weapons. And consider where our policy of selling nuclear material or equipment to the likes of India, Pakistan, and South Africa, the policy we are following today, will lead. Today the United States and the Soviet Union bestride the world like two giants with our overwhelming nuclear power dwarfing the military power of other countries. But even in the present relatively rudimentary stage in the development of nuclear weapons, a small investment in nuclear arms can give a far greater military capability than a similar investment in conventional arms. And with the technology proceeding apace, within a few years modest-size countries will be able to develop their own equalizers. It is not hard to imagine a nuclear-arms technology coming on the scene within 10 years that would permit a country the size of South Africa or even Syria to destroy the United States itself as an organized society. Suppose the Argentines had had this capability last year when they invaded the Falkland Islands and provoked the British response. Might they have acted to simply blow away London and the concentrated British economy if they had had the nuclear capability to do so?

And how long will it be before the onrushing nuclear technology permits a terrorist organization with or without the connivance of a sovereign country to develop their own nuclear power and destroy or threaten to destroy entire cities without fear of national reprisal? Because they represent no countries, they could vanish after killing millions. Do you see why I have dropped the odds on this kind of possibility to 1 in 5 or less? And I am being conservative.

HUMAN ACCIDENT

Now take the most likely disaster scenario of all: a human accident. Here I think the odds shorten drastically. In the next 20 years, we have, as I see it, about a 50-50 chance of suffering a nuclear war that occurs because of human errors through the warning systems that flow into computers and the commands that flow out of them. Literally hundreds of Russians and hundreds of Americans make critical go or no-go decisions. All of these are fallible human beings. A series of mistakes at any time on either side could literally sink civilization. In a July 2, 1983, article in the New York Times, Lloyd Dumas of the University of Texas at Dallas noted that: "According to Pentagon data from 1975 through 1977, roughly 5,000 nuclear weapons personnel were removed from duty each year for reasons of alcoholism, drug abuse and mental illness."

Somewhere, sometime, maybe today, tomorrow, next year, or some time in the next few years the string will run out. My guess is that it is even money the string will end in the next 20 years. It is a virtual cinch it will end with a nuclear war eventually, unless we stop the arms race. Here is why a nuclear freeze, difficult and risky as that, too, might be to achieve, represents our best option. Sure, such a freeze will require massive verification on both sides. Yes, indeed, there will always be the prospect of undetected violations by the Soviets. But as former CIA Director—I repeat, CIA Director—William Colby, who knew as much about our intelligence I think, as anybody in the country, has testified, our satellites could detect any violations by the Russians significant enough to give them a nuclear advantage. And if they did violate the treaty, we could react accordingly.

TECHNOLOGY RISK

Time is running out on an arms-control policy that relies primarily on a continuation of the deterrent effect of the nuclear arms race on both sides. This is true not simply because of the clear lesson of history that arms races have consistently lead to war; the time we have to act to stop the arms race is also growing shorter because of the nature of the nuclear technology competition. At this very moment, the Soviet Union has put most of its nuclear arsenal in multiwarhead land-based missiles that have tremendous megatonnage and devastating hard-target-kill capacity. They are highly vulnerable because they are immobile and stationary sitting ducks. We have started the same kind of deployment with our MX, which has even more warheads than the typical Russian missiles. The prime characteristic of both of these arsenals—Russian and American—is that they must be handled on a hair-trigger basis. We must fire our MX or lose it. The Russians must fire their land-based missiles at the first warning that they may be under nuclear attack or their missiles are gone. So the increasingly hair-trigger nature of our nuclear weapons represents another reason why technology edges us closer with the passage of time to nuclear disaster.

KILLER SATELLITES

But that is only the beginning, Mr. President. Technology is pushing us along in other ways. Consider just two. The heart of the arms-control system we have established in our satellite system. Witness after witness has testified before various committees of Congress that our satellites are and will remain the basis for our verification and monitoring of Soviet nuclear-arms activity. From a height 100 miles over the Soviet Union, our satellites can find objects little bigger than a golf ball. We can detect activity in that closed society that would be essential for preparing any kind of missile deployment. If the Soviets decide to produce nuclear weapons under ground, our satellites can tell us how much they have displaced from underground and how much they have moved underground. CIA experts have told us that the satellites are far more reliable and comprehensive than any intelligence we can get from human sources including any so-called onsite inspection. The Soviets monitor our activity the same way we monitor theirs—by satellite.

But the newest technology threatens the continued existence of monitoring satellites. The Soviets have developed satellite killers, crude but fairly effective. We are in the process of funding a new satellite killer system that will be far more devastating. The Defense Department tells us the satellite killers can be deployed by 1986. They estimate it will cost about $3.5 billion. The GAO says it will be closer to $15 billion. Whatever the cost in dollars, the consequences for arms control, unless we negotiate an end to the satellite-killer technology, could be devastating. What would happen if—4 or 5 years from now—the Russians should simply knock out our monitoring satellites or we should knock out theirs? First, any arms control agreement would be a dead letter. Second, our

warning system would be so crippled that a President of the United States might feel constrained to act blindly on rumor. Obviously, the odds on nuclear war under these circumstances sharply escalate.

ELECTRO MAGNETIC PULSE

The death of our satellites would put this country in the dark in one vital sense. But a second technological development could literally strike us deaf and dumb and paralyze our ability to act in an organized, coherent way. A single—just one—10-megaton bomb, exploded 300 miles above the Earth and over the center of our country—say over Kansas City—would kill no one, but could knock out our radio, and television, and telephone communications, and electricity throughout our country. This kind of electromagnetic pulse, or EMP, was tried with a far smaller nuclear explosion some 800 miles from Hawaii and about 250 miles in the air in 1962, 21 years ago. Within a millisecond, Hawaii suffered a sudden series of power and communications failures.

It takes only a little imagination to see where satellite killers, knocking out our eyes and ears, and the electromagnetic pulse, silencing our communications, could set us up for a nuclear attack in a way that would make our nuclear deterrent tardy and ineffective. The Soviets must have the same fear. Technology is preparing to drive each side away from knowledge of what nuclear capability the other side may be preparing with the use of satellite killers. And technology with the electromagnetic pulse threatens the destruction of much of our ability to communicate and therefore our ability to respond to a nuclear attack.

So both sides know they will be more vulnerable. Both sides know they may at any moment lose their capacity to respond coherently. But both sides recognize the advantage that would lie with the aggressor, the side that first knocks out the other's satellites, and then explodes the massive, very high-altitude nuclear bomb that paralyzes communications over the assaulted country. Both sides become understandably much more suspicious and paranoid. And the likelihood of nuclear war becomes much greater.

Mr. President, the logical answer to this nightmare is a mutual, verifiable nuclear freeze. Of course that involves risk, but there is simply no escaping the logic that if we want our children and grandchildren to survive in this nuclear world, we must move as swiftly and surely as possible to stop the arms race now. The clock is ticking. Any day could bring a nuclear war which—as the World Health Organization estimates—could literally kill over 1 billion people, and grievously injure another billion, and end civilization as we know it in the process. The odds that that will happen grow shorter with every year that passes without such an agreement.

Mr. President, I ask unanimous consent that the article to which I have referred in the July 2, 1983, New York Times, by Lloyd J. Dumas, be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, July 2, 1983]

REAL NUCLEAR WAR FOR LESS THAN $1

(By Lloyd J. Dumas)

DALLAS.—Could nuclear war happen by accident? Yes, flaws in computerized military systems could indeed cause such a catastrophe, and the participation of human beings at key points in the nuclear war launching process would not necessarily protect us against the ultimate disaster. We must squarely face that danger—and consider how to avoid it.

Unintentional wars—wars that "nobody wanted," that began accidentally or through miscalculation or misinterpretation—have not been rare in history. Perhaps the best example was World War I. And if history teaches us anything, it is that what happens once can happen again.

All the sophistication of modern computerized military systems and the seriousness with which the problem of flaws in these critical systems is taken does not render computer generated accidental holocaust impossible. There have been all manner of malfunctions in military computers, the warning systems that flow into them and the command systems that flow out of them. For example, twice in 1971 American nuclear missile submarines accidentally transmitted a properly coded message indicating they had been sunk by enemy action.

In 1980, Senators Barry Goldwater and Gary Hart reported that there had been 78 detections of possible attacks transmitted by the United States' missile-attack warning system during 1979 and 69 more during the first half of 1980 (a 77 percent increase)—all of which were of course false. Two were particularly spectacular major alerts: one triggered by the accidental entry of data simulating a real attack into the North American Air Defense Command computer system and one caused by the failure of a computer chip costing less than $1.

It is testimony to carefulness of those who design and operate military systems that there has been no accidental nuclear war. Yet accidents keep recurring, sometimes in new and unpredictable ways.

We have all read stories about people discovering that some computer had mistakenly declared them dead, doubled their bank account or sent them a $50,000 telephone bill. Most people have probably had less spectacular run-ins with errant airline or billing computers personally. In ordinary, mundane business, computer-generated mistakes are irritating, but of limiting consequence. When dealing with nuclear weapons, even the least imperfection may produce unprecedented disaster. And computers are not perfect; they cannot be. They are the creations of imperfect human beings.

People would, after all, invariably have some part in even the highly mechanized chain of decisions and actions involved in launching nuclear war. They design and build the machines of which any automated system would be made. But does direct human participation insure the indefinite prevention of accidental war?

As long as the military must recruit human personnel, the answer is no. People are subject to mental, physical and emotional problems that periodically render even the most solid among us unreliable. The nuclear military is not immune.

According to Pentagon data from 1975 through 1977, roughly 5,000 nuclear weapons personnel were removed from this duty each year for reasons of alcoholism, drug abuse and mental illness. In March 1971, three men with top security clearance working at the top secret computer section in which nuclear war plans are maintained were arrested for possession and sale of marijuana and LSD.

Furthermore, the boredom, isolation and stress of working in the nuclear military is enough to stretch even healthy people beyond their limits of tolerance.

A former missile-silo officer writes, in Air Force Magazine: "A crew member tries not to think about his ultimate responsibility which could lead to the killing of millions. . . . He learns to contrast his personal feelings and the role he's expected to play, unquestioningly and automatically. . . . He tends to see his personal life and official life as totally separate. The launch officer becomes schizoid."

As long as people are imperfect, we will run some degree of risk whenever we rely on mechanical systems that do not forgive, or compensate for, our inescapable fallibility. The nuclear arms race is such a system—and odds are that it cannot be continued and controlled indefinitely. There are few arms races in history that have not ended in wars. This one is no exception. Most likely, it will eventually blow up in our faces—either by intention or by accident. The only way out is to bend every effort, not to a continued military buildup and pursuit of meaningless "nuclear superiority," but to swiftly bring about an end to the nuclear arms race.

THE GENOCIDE CONVENTION AND THE DEVELOPMENT OF INTERNATIONAL LAW

Mr. PROXMIRE. Mr. President, I often speak of specific situations to which the Genocide Convention is applicable. But we must also remember that this treaty represents the logical conclusion to the development of international law and the protection of human rights.

One of the first systematic attempts to protect individual human rights was the well known work De Indius by the 16th century writer, Francisco de Vitoria. His treatise advocated the protection of the Indians of the New World. It also dealt with the conduct of warfare and the treatment of civilians. In many respects, this work anticipated the later codification of the rules of war in the Hague Conventions of 1899 and 1907.

While there have been earlier attempts to protect civilians in such instruments as the Declaration of Paris and the Geneva Convention, both drafted in the 18th century, the first all-encompassing treatment of this

issue was contained in the Hague Conferences. The second conference, which was held in 1907, dealt specifically with the protection of the individual. The framers stated in Preamble to the Convention:

Until a more complete code of laws of war has been issued, the High Contracting Parties deem it expedient to declare that . . . the inhabitants and the belligerents remain under the protection and the rule of the principles of the law of nations, as they result from the usages established among civilized peoples, from the laws of humanity, and the dictates of the public conscience.

The lack of specificity in these provisions, Mr. President, contributed to the problems encountered by the allied powers in their prosecution of Nazi war criminals. One of the major criticisms of the handling of the Nuremburg Trials was their "ex post facto" nature. The absence of specific treaty provisions concerning these crimes against humanity has lent credence to this charge. Thus, the stage was set for various multilateral attempts to define and punish crimes against humanity, especially genocide.

On December 13, 1946, the United Nations General Assembly adopted a resolution condemning genocide as a crime recognized under international law. From this they proceeded to draft the "Convention on the Prevention and Punishment of the Crime of Genocide." Since 1967, my pleadings on behalf of this treaty have gone unheeded.

Mr. President, the Genocide Convention is the culmination of over 500 years of the development of international law. For 35 years we, as a nation, have stood in the path of progress. As citizens of the Nation which claims to adhere to the highest standards of human rights, it should be disturbing to us that this body has failed to give its advice and consent to this crucial instrument. Therefore, I emphatically urge my colleagues to join with me in the effort to further the development of international law by insuring the adherence of the United States to the Genocide Convention.

IMPROVING PRODUCTIVITY THROUGH TEAMWORK

Mr. PROXMIRE. Mr. President, starting today, Eggers Industries, a custom plywood manufacturer in Two Rivers, Wis., will be the focus of a nationally-aired, 60-second radio spot which highlights the extraordinary accomplishments of this highly-successful company.

Eggers was selected for this honor by the American Productivity Council. The radio announcement features Howard K. Smith and Jim Lester, president of Eggers, and will be heard over the next several months on more than 3,700 radio stations across the country.

According to Don LeBrecht, executive director of the radio campaign, this radio spot is part of a continuing effort by the Productivity Council to regularly broadcast stories of cooperation between labor and management. The council hopes to better inform the public of the problem of declining industrial productivity and encourage government, management, and employees to work together to overcome the problem. "We are hoping the average person will hear these announcements, hear these success stories, and respond to them," Mr. LeBrecht said recently.

Mr. President, if any success story is to draw a response, the story behind the successes at Eggers Industries most certainly will. By working together, both the management and employees at Eggers have benefited greatly. In 1982, Eggers reported record profits and record output, and its employees received a 10-percent bonus that year.

The Eggers success story dates back to the fall of 1980, when a group of approximately 20 production workers and 10 management people got together and designed an employee involvement plan aimed at allowing more employee participation in company decisionmaking. "At that time," said Mr. Lester, "We all felt there had to be a better way of running a company than always having management pitted against labor."

In January 1981, the company employees voted to implement the involvement plan. Two-and-a-half years later, things could not be better at Eggers: worker morale and productivity is high, production costs are down, shipments are going out on time, and employee bonuses are given out monthly.

The heart of the involvement plan at Eggers is the departmental committee—each department in the factory has its own committee, which solicits and entertains suggestions from its employees. These suggestions are considered by the departmental committees and then forwarded to a larger umbrella committee comprised of employees and management.

According to Mr. Lester, the committee system strives to elicit maximum input from the company's employees. And most importantly, employee suggestions are consistently translated into actions. New equipment has been purchased and existing production methods altered in response to employee suggestions.

At the end of each month, operating and production costs are calculated and compared to those of the previous months. If overall costs decrease, which has been the case since the inception of the involvement program, both the management and employees reap the benefits. Under Eggers' gainsharing system, if costs decrease and profits rise, the employees receive 55 percent of the financial gains in the form of bonuses, while the management gets the remaining 45 percent.

In short, the employee involvement plan at Eggers Industries has proven beneficial for everyone. Spirits are high, more good will exists between labor and management than ever before, and more money is in the pockets of both the employees and the management.

Mr. President, I congratulate all those at Eggers Industries for their accomplishments and wish them continued success. In the face of this serious productivity problem, Eggers has taken some positive and meaningful steps. I think we can all stand to learn something from their example.

Mr. President, I yield the floor.

RECOGNITION OF SENATOR SYMMS

The PRESIDING OFFICER. Under the previous order, the Senator from Idaho is recognized for not to exceed 10 minutes.

CUYAHOGA VALLEY NATIONAL RECREATION AREA

Mr. SYMMS. Mr. President, the National Public Broadcasting System, PBS, aired a television documentary on June 6 on the creation of the Cuyahoga Valley National Recreation Area. As a member of the House Interior and Insular Affairs Committee, I was familiar with the situation which developed in the Cuyahoga Valley, and am pleased that PBS gave the public the opportunity to hear from some of the homeowners in this case.

Unfortunately, in any situation where there exists Federal property ownership with administration by a Government bureaucracy, coupled with private land interests or tenants within this land, there is the strong likelihood of conflict. It was a clear conclusion from the documentary that the Park Service thwarted the intention of Congress in the legislation to create the Cuyahoga NRA, and failed to give due consideration to the rights of the private property owners in the valley. The resolution of these conflicts was slow in coming, and for many property owners, came too late.

There is a bright note in this situation, one to which PBS's "Frontline" did not allude to in its ominous broadcast. The Reagan administration has recognized the problem of Federal encroachment on the rights of those people dwelling on Federal lands or on proposed Federal recreation areas. Secretary Watt, for a number of reasons—besides the heavy-handed land acquisition tactics exemplified at Cuy-

ahoga—proposed a moratorium on park land acquisition. Jim Watt felt, justifiably so, that Congress had been too busy seeking to add more land to the park system, and sorely neglecting existing parks, even to the point of failing to insure that the parks met adequate health and safety standards. In addition, Secretary Watt requested a review back in 1981 of park land acquisition policies. This acquisition had been costing up to 400 percent above figures actually used in legislative debate on the creation of new parks and park expansion. In the Cuyahoga case, it is likely that significant cost-savings could have been achieved had the Park Service been a little more interested in preserving people's homes and a little less interested in fee title purchases.

Mr. President, in my own State we have a great many of these kinds of problems, and I think that this is a problem that the Congress needs to address. We have an inholding problem in Island Park Reservoir at the present time where inholders are involved with Federal leases. I hope that we will be able to come to some kind of a reasonable compromise so that the rights of those many people can be respected as well as the public interest best served.

Mr. President, I ask unanimous consent for that reason to insert the transcript from the "Frontline" show into the RECORD at this point for the benefit of my colleagues.

There being no objection, the transcript was ordered to be printed in the RECORD, as follows:

FOR THE GOOD OF ALL

INTRODUCTION

JESSICA SAVITCH. The National Park Service wants this man's house, they're operating a Park preserving landscape, animals, but what about people?

Tonight on "Frontline" the policy and practices behind the making of a Park . . . that was supposed to be "For the Good of All".

It is rarely, if ever, that we get to see a story about the implementation of a government program . . . charting its effects on the lives of people over time . . . and the details of how it worked. But two filmmakers documented such a story. For three years, they followed what happened to a small community in Ohio, when the National Park Service went about the making of a National Park, the Cuyahoga Valley National Recreation area. It was part of the drive, in the mid-seventies, to greatly expand the size and number of parks in America.

What these filmmakers discovered was a classic political story . . . a story about good intentions, bureaucracy, and a struggle—pitting individual homeowners against those acting "For the Good of All".

Unfortunately, what happended here with this park, is not an isolated case. During the period when this film was shot—1979–82—thousands of families across the country had their houses and properties turned into Parkland.

So, tonight's film "For the Good of All" produced and directed independently by Mark and Dan Jury, and produced for "Frontline" by Stephanie Tepper.

Cleveland, Ohio. This is where the Cuyahoga River caught fire in 1969 and became a byword for pollution. But just eight miles upstream, is the beautiful Cuyahoga Valley. In 1974, Congress declared this area a National Park.

But the coming of the park was to bring irrevocable change to the lives of the people who lived here.

Before the park, the Lindley family had farmed in the valley for a hundred years.

BOB LINDLEY. I was born and raised on a farm. When I was nine years old my dad was on a 280 acre farm. He caught his hired man sleeping out in the field instead of working so he fired him. So I took over for him and I've been at it ever since.

EVELYN LINDLEY. I grew up, was born in the same house as my dad was. It's just beautiful in the area. It's a different atmosphere from anywhere else in the world.

JESSICA SAVITCH. Before the park, Bill Erdos and his family lived in the home he'd built with his own hands.

BILL ERDOS. It took me several years to do it, because of limited funds and because I was doing it in my spare time, after work and weekends and things like that. We had a new house by the time we were done. We submitted it to Architectual: Record and it was selected as one of the twenty outstanding homes in the country for 1977.

JESSICA SAVITCH. Before the park, one of the small businesses in the valley was the flower shop.

NATALIE VALCANOFF. Good afternoon, Natalie Florist. Uh-huh. Okay, go ahead.

JESSICA SAVITCH. Bob Valconoff had built the shop, and his wife Natalie ran it for 28 years.

NATALIE VALCONOFF. Very few people know my last name because my first name is Natalie and they just think it's Natalie Florist. They just obviously, and they call my husband Mr. Natalie, which he doesn't like very much.

BOB VALCONOFF. That's right. I'm Mr. Natalie.

JESSICA SAVITCH. Before the park, Burrell Tonkin was the local handyman.

BURRELL TONKIN. I went to the Army in the Spring of 1940 and I came back in 1946.

JESSICA SAVITCH. Burrell could turn his hand to any kind of job. Sometimes he'd help out a neighbor for a couple of dollars.

BURRELL TONKIN. I made a living, didn't get rich or anything, but I was doing a useful thing I thought. Something I like to do which was worth quite a bit.

JESSICA SAVITCH. Before the park, Leonard Stein-Sapir had hoped his children would grow up here.

LEONARD STEIN-SAPIR. One of my primary reasons for wanting to move out here, in the valley, and raise a family here, was because of the make-up of the community. It was just a lot of different people who all seemed to get along together. People with integrity and individuality and no one was trying to rip anybody off, they were just trying to live here and take care of the environment and be by theirselves. Be private people living quiet lives.

JESSICA SAVITCH. This is the story of what happened to these people when the National Park Service came to the valley.

It's a story of more than local interest because it questions whether a federal bureaucracy like the Park Service thwarted the will of Congress, ignored the law of the land and overrode the rights of individuals.

It is a story about power and confrontation, about a large federal bureaucracy up against a small community.

[New scene.]

Now the people who created the park were idealists. They believed that a park "for all people, for all time", was for the greater good. They believed that a park should preserve a place of peace and tranquility for the many people who would come here from our over-crowded cities. But what about the local community, the people we've just met. Should the park be created at their expense? That is not what Congress originally intended. When the law was being written, Congressman Seiberling, the author of the legislation, and a man whose own home was in the park said. . . "We're not just talking about the conservation of a piece of land, we're talking about the conservation of people as well. In planning the park, the people must be considered as a resource as well as the trees and flowers and birds and waterfalls."

[Musicians playing.]

At first the local people welcomed the idea of living inside the park.

Here they'd always be conservation minded.

OLD MAN. Fortunately every governmental subdivision, village and township within the valley and Summit County were pioneers in zoning for the protection of the valley. Protection from industry, commercialism and multiple housing units. None were permitted.

JESSICA SAVITCH. People thought the Park Service would carry on the good work.

SPEAKER AT ROTARY CLUB MEETING. It is my pleasure to introduce to the fellow members of the Rotary Club at Shaker Heights, the Superintendent of the Cuyahoga Valley, Mr. Bill Birdsell.

BILL BIRDSELL. Thank you, Bob. It's a real privilege to be up here today to tell our neighbors up here in the east side of Cleveland, the east side of Cuyahoga County, a little bit more about your National Park, the National Recreation Area that's being developed down the Cuyahoga Valley. So with that we'll pull the curtains and show you some pretty pictures.

JESSICA SAVITCH. For Bill Birdsell, the opportunity to create what he'd like to call "a park for all people, for all time", was to be the peak of his career. Congress, the courts, the National Park Service and a $35 million budget gave the superintendent almost unlimited power within the valley. Birdsell now set out to create his park with an ambitious program of land acquisitions.

BILL BIRDSELL [at Rotary Club meeting slide show]. In 1974 legislation was enacted to establish the Cuyahoga Valley as a National Recreation Area to preserve that scenery, natural, historic for the public for all time.

The National Park Service did enter within days of enactment and began land acquisition.

WOMAN RANGER. When we look at the valley, we can see that it's 32,000 acres set aside. Right now the only areas that are under park service operation are the eight metropark areas. The rest of the acreage, the light green section, marks private citizens' land that is being boughten up, slowly but surely and then will lead to further development of picnicking areas and things of that nature. Some of this land is already boughten, but they're still in the process, the land acquisition office is still in the process of purchasing all of the land area.

JESSICA SAVITCH. The local homeowners had always known that the park would have to acquire land. But they believed official assurances that only a handful of houses would be compulsorily purchased. So what happened next came as a rude shock to many of them.

LEONARD STEIN-SAPIR. For some strange reason they need my house. The needs have changed. The first one was to put in a horse trail that ran through here down there. Now you can see, it would be an impossibility to put a horse trail down there. Well once I pointed that out to them all of a sudden it changed from that, to when we took Birdsell's deposition, he wanted to bulldoze it because he wanted to preserve the open space. He wanted to add another couple of acres to the 32, 30 thousand acres of open space that they already had. The latest, and I think this just happened within the last month, or the last couple of months anyhow, that they now want to put it into some sort of a visitor center because they think it's so nice. They want to take my house and make it a visitor center.

BOB LINDLEY. Well when we first appraised it, there was, two young fellows come out and said you're not a big time farmer so he said it's classified as a hobby. He said well, that's the way it is, we want your property and I don't like it. I says, let's forget about the whole thing. He said, well, we'll buy it outright.

BILL ERDOS. We received a letter from the government saying that they wanted to acquire our property in fee and that we would be receiving a call from the appraiser to set up a time for them to come out and appraise the property. And I specifically asked why and who made the determination and for what reasons. The standard answer that I got was your property is on my list. You know that's the kind of answer that you get. There is some mysterious higher level person who is making these decisions. They're not privy to the rationale, they just end up with a list and say go about this.

BURRELL TONKIN. Well, I didn't quite believe it myself at first. I really, asked the lawyers, supposed we just ignore the ——. He says well you can't do that, I says why not. He says well they'll send armed men and take it away from you. And that didn't worry me a great deal except for Grandma, it would tear her all to pieces if I went away. So I decided that uh, to do the best I could and just get out. She gonna go with me . . .

GRANDMA TONKIN. I'm gonna go with him, he's all I got. My husband's dead and I got no daughter.

JESSICA SAVITCH. Slowly but surely, boarded up houses with government "No Trespassing" signs became common sights in the valley. The U.S. National Park Service's "program of acquisition" was turning out to be far more extensive than anything Congress and the local people had ever imagined.

[New scene.]

Now Congress had provided two ways for the Park Service to acquire property. If purchased outright, the owner would lose his house, but he could still choose to stay in it, in theory, for up to 25 years, as a tenant of the government. This was called fee title purchase.

Many homeowners objected to becoming temporary tenants in a dying community so when their homes were purchased, they took the money and left.

In the second form of acquisition, an owner could make a deal with the government. He could keep his house and become a part of the park if he promised not to make any changes to the property. This was known as scenic easement.

Scenic easement was cheaper than fee purchase. It would have preserved the community, and it was clearly what Congress had intended.

The law said that fee title purchase should only be used in special circumstances. Despite this, Superintendent Birdsell admitted under oath in 1979 that more than 300 homes had been taken in fee. Only a few easements had been given.

The man who sponsored the legislation was the same Congressman Seiberling who had originally spoken of conserving the people along with the land. Publicly he gave his support when a halt on further purchases was called for by the people whose homes were threatened by the park. But he was determined to make a park for his constituents in Akron.

So privately, Representative Seiberling seemed to support the Park Service seizing more homes.

This Park Service document shows Seiberling both encouraging scenic easements and also advocating more condemnations and more declarations of taking.

LEONARD STEIN-SAPIR. Congressman Seiberling, in his statements before Congressional Committees, prior to the passage of this act, specifically stated that no more than 25 to 30 homes would have to be eliminated from the area to establish this recreation area.

BILL BIRDSELL. Congressman Seiberling has stated this publicly, and to me personally, there was never any intent to protect a community.

LEONARD STEIN-SAPIR. Preserving the community would have added charm to the park. It would have lowered the cost of administration and it would have lowered the cost of acquisition. It was absolutely ludicrous for them to do this but the Park Service has a mind set that all parks should be devoid of people. You can preserve trees, you can preserve birds, you can preserve woodchucks, but people got to go.

BILL BIRDSELL. It's been very clear that throughout the entire thing—and I've attended the hearings for this park and have been here since its inception, and there was never any intent for a protection of a community in the sense within the park. The law is very clear. It says that we are to establish a National Recreation Area to meet the needs of, for urban recreation in this metropolitan area. And, of course, you cannot do that and still protect everyone's interest who happened to live within the geographic area.

1ST PARK RANGER. KAOP, seven—three—one, echo.

2ND PARK RANGER. Seven—three—one—three, Delta one—two. I'll be out at the security check of the Rowhack property on Miles Road.

JESSICA SAVITCH. So the Park Service continued to close doors all over the valley. To make sure that the houses it had bought remained locked up, the Park Service sent armed rangers out on patrol.

But these purchases cost so much more than scenic easement that they helped push up the estimated price of the park from $35 to $166 million.

These costs overruns were not the only cause for concern. A storm of criticism came from those who were losing their homes. They charged that the Park Service was high handed and inconsistent.

Ranger Fred Reese.

FRED REESE. Anytime you come into an area that's already established and basically, mandated by the U.S. Congress, to set up a park with people already living in the area, I don't really think that it's possible not to have a PR problem.

JESSICA SAVITCH. This PR problem led area newspapers, like the now defunct Cleveland Press, to headline the park's treatment of the tiny community.

This local affair became a regional issue after a series of articles by reporter Peter Almond.

PETER ALMOND. This idea for the series on the Cuyahoga Valley Park came about through our desk and our city editor who have been in touch with the various community groups who have been protesting what the Park Service had been doing for quite some time. So I was called on to just take a look. And my inclination, both my inclination of myself and my city editor, we're both outdoor types, was that there must be something wrong with the homeowners. This is a noble concept, something that the press in fact had been pushing for some years. I went out and just started looking around. It took about a month and I just drove from one end of the park to the other and I became aware that there were indeed a lot of problems and things just didn't seem right. I went through this little village of Everett and seeing all these places boarded up with stickers on there—U.S. Government Property Keep Out—you really begin to wonder, well, why is all this being done? And that's how come we came to concentrate on this question of really what's going on. I don't think anybody had been objecting to the fact that there was going to be a park, it was just the way that it was being done.

JESSICA SAVITCH. One of Peter Almond's stories focused on the A-frame owned by Leonard and Beverly Phillips.

PETER ALMOND. I just drove up Chaffee Road, in Sagamore Hills and said I wonder what's down there. The rest of the development was untouched, but the three houses at the end were not. So I knocked on the door and started talking to Mrs. Phillips.

LEONARD PHILLIPS. The reason they were going to take these three homes here is because down from the valley, you know like in the summer, winter months, and that there, you could see the houses. And, they didn't want anything, you know, showing in the park. So that's when they approached us and they told us that they were going to take these three houses here.

BILL BIRDSELL. That A-frame that he refers to is visible from down in the valley as an intrusion as you're walking through the valley, in the pine area Narrows and look up. So for those reasons, the trail going there and the visibility, that property was acquired.

PETER ALMOND. Well I stood on that property and looked down, I couldn't even see the river. And I thought this was an interesting story. I drove around to the other side of the valley, on the rim I couldn't see across the other side.

Now this of course was March. The trees hadn't yet come out into full flower, full leaf. And so you could see all the way through and I couldn't see, I couldn't see what they were talking about.

JESSICA SAVITCH. The A-frame was on the very edge of the park, barely fifty feet inside the official park boundary. In fact, as this map shows, it was located in the narrowest part of the park. There are no roads here and hardly any visitors.

But other houses were allowed to remain. Some of them in the most beautiful and most visited parts of the park.

For instance, close to Hale Farm, one of the park's most popular attractions, is the home of an influential local newspaper editor whose home was spared. The owner was one of the few granted a scenic easement even though his house is barely 600 feet from the entrance to Hale Farm. Critics charged the Park Service with inconsistency.

They also raised questions about the park's treatment of small businesses like Natalie Valcanoff's once thriving flower shop.

BOB VALCANOFF. We were angry. Here we are, we've established ourselves in this area. All of a sudden to have somebody come up and say hey you gotta move, we want your property.

NATALIE VALCANOFF. I cry a lot. I'm bitter. I've lost a lot of weight and I've aged.

BOB VALCANOFF. We were told what we were supposed to get and what we were going to do and that was it, whether we liked it or not. Upon refusing that, then we were told if we did not accept their offer that we could face condemnation. Ninety days is not nearly enough time to move a business that's been here for 28 years.

BILL BIRDSELL. The flower shop itself is a commercial operation that was incompatible with the park being developed as a public use and so that had to go. The house will eventually be disposed of as will the flower shop. We try to find adaptive use of any of the structures we can, if there's an administrative need. But the size of that shop and its location we don't project any use for that at the present time. It'll be simply obliterated and become public use area along the river there.

JESSICA SAVITCH. But just a short distance up the river a much bigger commercial enterprise had been spared by Birdsell. Here in the very center of the park, on the banks of the Cuyahoga River was the Jaite Paper Mill.

Though the Mill was clearly an eye-sore, escalating costs had left the Park Service unable to afford it for the foreseeable future.

Smaller concerns like John Szalay's were supposed to go. He'd raised sweet corn and sold it to tourists in the summer.

Bob Bishop, who grew Christmas trees for the winter season had his business bought up and closed down.

One of those who could make no sense of this was their neighbor, Lily Fleder.

LILY FLEDER. The federal government did not invent this. This was all here before and the local people knew what brought people here. They came to buy sweet corn and vegetables. They came to buy Christmas trees, they came to drive through the roads. And what are the first things that the government does? You can't raise this sweet corn here, that's not compatible, you can't sell Christmas trees, that's not compatible. Now they're saying you can't drive through the park, that's not compatible either. If they wanted to go about closing something off so that nobody could see it, they couldn't be doing a better job than they're doing right now, I don't think.

JESSICA SAVITCH. At park headquarters, Bill Birdsell continued to work on his master plan.

The park superintendent was supposed to draw up a detailed plan of acquisition and make it available to the public according to the Congressional act that created the park.

BILL BIRDSELL. We had to determine in planning this park with the public input which areas would be actually acquired in fee and would therefore be public lands open to the public, as called for by the enabling legislation

JESSICA SAVITCH. Though he often talked about his plan, the public was kept in the dark.

PETER ALMOND. I asked the Park Service do you have a plan and they produced a master plan but it wasn't an acquisition plan. It didn't say how they were going to obtain the houses, or any other properties, in what order and why. And from what I could read of the original authorization by Congress that that was definitely required to have an acquisition plan and I didn't see one.

JESSICA SAVITCH. For those protesting against the park this was a crucial omission. It deprived them of their legal right to know the intentions of the Park Service. Their confusion and uncertainty meant that effective opposition was only organized when it was too late.

LEONARD STEIN-SAPIR. They're buying homes for hundreds of thousands of dollars that they don't need, and they're bulldozing them. I mean it's sheer lunacy. They're destroying family homesteads that have been in the same hands for generations for no reason.

BILL ERDOS. We are for the original concept of the park which was to preserve the area. To keep the trees, to keep the people living here to have the farms maintained. To keep the village intact. That's what we're fighting for and protesting for.

JESSICA SAVITCH. The protestors were very bitter that Congressman Seiberling was one of the few who was enjoying a scenic easement, which enabled him to keep his home in the park, while so many others were forced to go.

CONGRESSMAN SEIBERLING. That's democracy. We'll never find in any group everybody agreeing. It's inevitable when you do something this big that some people aren't going to want it. What I'm really saying is that the public interest must be served. And as far as I'm concerned my personal interest, and everyone else's personal interest that lives in this valley, is secondary to the public interest.

LEONARD STEIN-SAPIR. What I'm trying to say is a bureaucratic agency has trampled the rights of people illegally.

CROWD MEMBER. Well you're using emotional words, like trampled . . .

LEONARD STEIN-SAPIR. What's wrong with emotional words? You're talking about people's homes.

LILY FLEDER. It's just ironic that in the time we have lived here there have been so many battles. The people of the valley have worked so hard to preserve it as it is and they did such a good job that it was desirable as a National Recreation Area. But, you can't help but wonder if the people who came in and said well this is lovely, we'll take it, have any idea of what went into keeping it this way. There were all these battles over the high tension lines that were going to go right through town . . . so we lost that one . . . but still we won something because they painted them green and moved them over a little bit. 271 originally was going to cut right through the center. Do you know what's involved in getting, once the engineers have a road on the map, in getting them to move that? You can't imagine. And the people of the valley did all that. It seems as if the whole time we were here we were always working on something like that and so were our neighbors. And what's, so what do you get for all that. You know, out.

BILL BIRDSELL. It's like any other public project, some people are effected for the good of all, and it goes right back to the Constitution of the United States where a man's property is his and inviolate unless there is a need for the good of all, and then, therefore, it must be subservient. The right of eminent domain. And so this is what we're doing in our land acquisition, we're very comfortable that it's been well planned. It is not in any way arbitrary. It's been well established, well thought out, hundreds of hours of experienced man power has gone into developing this plan and while it is in conflict with some individuals, we still believe it is certainly within our mandate and what we were charged to do.

JESSICA SAVITCH. Having acquired the homes, the Park Service enlisted the aid of the local fire department.

FIREMAN. The firefighters are taking a training session today. The house is part of the Cuyahoga Valley National Park and it's slated for demolition. We gained permission from the Park Service and the EPA to burn it instead of just demolishing it. That way they get rid of the house and we get the benefit of the training at the same time. We'll be here all day until this house is completely to the ground.

MARK JURY. What'll be here at the end of the day?

FIREMAN. That slab and this will be a slab too. That'll be all that's here. And they'll send a bulldozer in, to take it away, and this will all be considered reclaimed ground for the forest.

MARK JURY. How often do you do this kind of exercise?

FIREMAN. As often as we can a place to destroy. Not many people want to volunteer their homes.

JESSICA SAVITCH. As the fires inflamed the passions of the community, more local reporters began to take notice.

ANNOUNCER. WJKW, TV 8, Cleveland.

JUDD HAMBRICK. Property owners in Peninsula are really upset, saying they're losing land to the government. Newscenter 8 citycam reporter, Dale Solly is standing by with a live report on tonight's angry town meeting. Dale.

DALE SOLLY. Well Judd, the residents are angry because the Cuyahoga National Recreation Area. A 32,000 acre park between Cleveland and Akron. The people of the valley say that park is costing them their homes.

LEONARD STEIN-SAPIR [at meeting]. They're taking these homes because in the mind of some bureaucrat it would be better to remove them and have open space than have a family living there, paying taxes and raising their children there.

DALE SOLLY. The residents charge the Park Service is coercing them out. Pressuring them into selling their homes for park land. In between the shouting, Congressman John Seiberling tried to explain the government's view, that the park is bigger than what the residents want.

CONGRESSMAN SEIBERLING. The concerns of the several hundred people that live in this valley are important. But the concerns of the millions of people who are people who are going to use this park are also important.

DALE SOLLY. The residents aren't against the park they say, only against what they

call the destruction of the community. However, what their efforts to save that community will do remains to be seen.

JESSICA SAVITCH. In his efforts to save the community, Leonard Stein-Sapir went to Washington in the summer of 1980.

He still hoped to persuade the Park Service to stop buying houses so as President of the Homeowners Association, he arranged a meeting with the head of the National Park Service, Russell Dickenson.

RUSSELL DICKENSON. Anybody who was generally expressing, was the kind of concerns that many of the homeowners in the National Recreation have about the future, where they were headed and the impact of the National Recreation Area project on their lives. And we had an exchange of views and they've now gone on their way.

LEONARD STEIN-SAPIR. My feeling was that this is a large corporation. The Interior Department is a large corporation. He's the executive head of it, they have a subsidiary company in the Cuyahoga Valley where there are a few problems and he will do what he can, to see, if there are problems. It's very clinical, devoid of any emotion.

RUSSELL DICKENSON. One of the things that's associated with parks is open space. But in establishing a new area, such as a National Recreation Area where you have residential communities already in place. The question is always, how much residential, how much residential space ought to be allocated and how much open space. And essentially, that seems to be the continuing question.

PETER ALMOND. The open space concept is one which, as I understand it, helped to create Yellowstone, and all the famous parks out in the west where they wanted to maintain the natural beauty. This was not just going to be an open space kind of park. There were communities involved. That's the reason it's not called a park, it was called a National Recreation Area. I wondered whether the National Park Service, and those in Washington, understood what it was that they were going to create here in the Cuyahoga Valley.

JESSICA SAVITCH. What they were trying to create was a wilderness park where every tree and flower and animal would be protected by federal laws.

The laws were strictly enforced and became a new source of bitterness for the local people.

BOB VALCANOFF. The party sold their property to the park, retained rights to live there. Their dog killed a groundhog.

LILY FLEDER. And a park ranger came by.

DOGOWNER. He said is this your dog and I said, yes. And he said well he just killed a woodchuck in the corner. And I said well the farmer that has that little garden down the road, he'll be coming up and thanking me.

BURRELL TONKIN. They charged the lady with harassment to the groundhog or the woodchuck, not the dog. Of course, I guess the dog couldn't be.

LILY FLEDER. Then, they had to pay a 15 dollar fine or else go to court.

DOGOWNER. And I asked him, I said well my husband's got a garden out here. You mean, if the woodchuck comes in there, any self respecting woodchuck is gonna eat cabbage and lettuce instead of weeds. You mean that we can't do nothing about it, he said no.

JESSICA SAVITCH. The Park Service had also said no to all the Valcanoff's appeals to continue to run their business in the valley.

So in the spring of 1980 the time had come for them to leave their home next to the flower shop.

NATALIE VALCANOFF. Do you want me to tell you something? I caught Bob vomiting yesterday. He's so nervous and upset that he just, he's holding his stomach like this. He doesn't want to move. I mean it's affecting him more than me.

BOB VALCANOFF. Well what your standing in is my ideas.

NATALIE VALCANOFF. He built it.

BOB VALCANOFF. I built, I designed this house and built it.

NATALIE VALCANOFF. Like I said, in this whole area there's been six houses torched, and if I see this house go.

BOB VALCANOFF. Well, we've been here for 30 some years.

NATALIE VALCANOFF. 28, no 24 here and.

BOB VALCANOFF. Well, we've lived here.

MOVER. I couldn't do it. That's all there is to it. I wouldn't even go.

NATALIE VALCANOFF. That's what Bob said to me yesterday, and no, last week—I started packing things for the truck, and he comes to me, gosh darn, he used different words, he said, we're packing and I'm not gonna move . . . I said Bob we have to, he says well I'm gonna tell the park we're not moving. I said Bob we have to. So I just kept on packing.

BOB VALCANOFF. That's one of the things that . . . I brought Natalie home from the hospital with the new baby . . .

NATALIE VALCANOFF. With Michelle.

BOB VALCANOFF. Which is our youngest. She was born on April 8th and that's when we moved into the house, so we'll start all over again, so well.

JESSICA SAVITCH. After three generations in the valley leaving came hard to the Lindleys.

BOB LINDLEY. They claimed they wanted to beautify the park. Destroy a landmark that's been there for way over a hundred years. it hurts. I spent a lot of hours, a lot of hard work, have 'em come along and tear it down. All you could take.

BILL BIRDSELL. I elected and chose a career to be a public servant. And it's very satisfying to me to know that I'm preserving something for people all the time. I am playing a major role in that. There's certainly a personal gain for me, I won't be here 25 years from now to enjoy the benefits of the park. But I get a great deal of satisfaction in knowing that it's something that is going to be here in perpetuity and a major project that is going to benefit the public forever.

JESSICA SAVITCH. Birdsell was never to see his vision become a reality. His clashes with the public had made him too controversial a figure. In Washington, the Park Service hierarchy decided to move him aside. It was a shattering blow for Bill Birdsell.

PETER ALMOND. Three or four months after the series had appeared in the paper, Birdsell was reassigned. But Birdsell didn't leave the valley. He died, had a heart attack, and died as he was cleaning out his desk I understand.

JESSICA SAVITCH. Shortly before Birdsell's death, the land acquisition policies of the National Park Service were roundly criticized in this government report.

Senior Group Director Roy Kirk.

ROY KIRK. In our reports we recommend that the Park Service sell back lands to private property owners where the acquired lands, inconsistent with intent of Congress, or where they really weren't needed for the purposes of the area.

JESSICA SAVITCH. In 1981 a second government report confirmed many of the criticisms that had already been leveled at the Cuyahoga Valley Park.

Senior Evaluator Phil Olsen.

PHIL OLSEN. As it turns out, you have less than one percent of the people's property being acquired in scenic easement for all intent purposes, almost 99 percent of the park is going to be acquired in fee simple.

ROY KIRK. What we like to see is the Park Service justify, through land protection, plans and management plans where they need to acquire land in fee title or where they could use alternatives, such as easements or rely on zoning.

PHIL OLSEN. According to enabling legislation the area was supposed to come up with a land acquisition plan as to how they would acquire the properties. It was supposed to be completed by December of 1975. Well that plan never came about until 1980 and made available to the landowners in June of 1980. The first time I saw a formal land acquisition plan. As a result many homes were being bought without the people really understanding what the intent was behind a lot of the Park Service's action.

JESSICA SAVITCH. Taken together the two government reports formed an indictment of the Park Service's land acquisition policies.

With so much controversy surrounding the park, Birdsell's successor, Lewis Albert, decided to keep a low profile, and steer a middle course.

LEWIS ALBERT. It's like walking a tight rope sometimes. Because there are clearly conflicting interests. There are some people who think this recreation area should be perhaps paved over and into one big ORV system. There's another group that says no, all they want is three million miles of equestrian trails. Everyone has their own interest, or series of interest. Yet I see my job as being one of balancing those interests, and wherever possible, satisfying the public's needs where it can be done in consistence with a broader, national policy and national function of the National Park System. Certainly, our acquisition of properties was displacing people, creating hard feelings. Some of which were justified perhaps, some which weren't. I'm not going to make the value judgment now but some hard calls had to be made.

JESSICA SAVITCH. Albert's judicious balancing act meant that he wouldn't condemn any new homes, but he wouldn't give any back either.

So in the winter of 1981, despite the government reports and a new park administration, the local residents were left exactly where they'd always been, on the way out.

BURRELL TONKIN. It's like a military operation, you know. They don't have much compromise at all. There's no give, there's no flexibility to them at all. They say they're going to do something, they go ahead and do it. Yeah, this is the end, this is the end. Yeah, this is the end of the Tonkin in the valley here. They're all gone now, 'cept me and Grandma.

JESSICA SAVITCH. But by the end of that winter it seemed that there might be grounds for hope. In Washington, at the Department of Interior, a new Secretary, James Watt, was appointed by the budget-conscious Reagan administration.

Watt's new policies seemed like a last minute reprieve to the homeowners.

ROY KIRK. Secretary Watt has established a moratorium on land acquisition, except in those cases where, apparently it's under

court order, or there is definitely a hardship, or it's really critically needed to acquire the land to protect a resource.

JESSICA SAVITCH. So in the spring of '81, Leonard Stein-Sapir arranged a second meeting in Washington. On his first trip he put his case to the head of the National Park Service but after eight months he was still waiting for a reply.

This time he was meeting with the top officials in the Department of the Interior.

Ray Arnett, an under-secretary was among those present.

LEONARD STEIN-SAPIR [at meeting]. Over 400 out of the original 500 residences have either been acquired in fee already or are presently in condemnation. What the Park Service is doing now, is they're taking homes that were purchased, homes that were worth 40, 50, 100 thousand dollars and they're giving them to the local fire department to burn for practice.

NO. 1 AT MEETING. They tried to manage it like Yosemite.

NO. 2 AT MEETING. EXACTLY.

NO. 1 AT MEETING. You've got an elite category in the National Park Service who are trained, who have spent 20 years managing the National Parks as natural areas.

NO. 3 AT MEETING. There's another factor, too, that nobody mentioned. That is the Park Service contracted with the Corps of Engineers to perform the acquisitions. The Corps isn't in the habit of going out for easements. They want to flood something.

NO. 1 AT MEETING. And the most poignant central fact, is that the people did not have to be kicked off their land in order to have a wonderful park. They could have stayed.

NO. 4 AT MEETING. It's not dead yet.

BARTON CRAIG. It is not dead yet. There are three classes of situation; there are the people who are in condemnation right now, but have not lost title to their property. Our recommendation would be that those condemnations be dismissed, immediately by the government. Number two, is the classification of people who are living under a scenic easement or a term of years. My recommendation, with respect to those people, and that's well over a hundred people, a matter of fact Birdsell has over 172, I believe, in 1979, living under scenic easement or a term of years. Our recommendation with respect to those people, is that they be permitted to buy back the interest in their land that they had to give up to the government. In other words, give the government back its money, less some amount to compensate them for the inconvenience, and they get back full fee title to their property.

LEONARD STEIN-SAPIR. Well, subject to a scenic easement, however, so they can't be commercially developed.

NO. 5 AT MEETING. You mean the homes that are there that have been purchased, give 'em back their money—give 'em their homes.

LEONARD STEIN-SAPIR. Exactly. They'd agree to that, absolutely.

LEONARD STEIN-SAPIR [outside meeting]. I'm so happy. I can't tell you. It looks good and we spoke with people in authority. We spoke, among others, the Under Secretary of the Interior, the second man in command in the Dept. of the Interior and, as Tom says, they were sympathetic.

JESSICA SAVITCH. But for some valley residents this possible solution had come too late.

BOB LINDLEY. This Stein-Sapir, he called me one day and said would you be interested in buying your old property back? He said we're working on something now, through the government, that the old homesteaders could buy back their old property. I said, well you're just a little bit late. I said, there's nothing left. First they tore down the barn. Our neighbor, Alexanders, told us that they came in with bulldozers and leveled the house right down, covered up the basement. I don't know if they did anything with the well or not. They just deliberately tore it down and hauled it away in trucks.

EVELYN LINDLEY. There's just no word to express it, the feeling that it leaves you with. And also that our ancestors aren't here, any of 'em, to see this happen because I don't think any of 'em could have taken it.

JESSICA SAVITCH. The months passed and gradually, the hopes raised by the meeting in Washington began to fade.

LEONARD STEIN-SAPIR. Never heard a word. Nothing, absolutely nothing. Since the euphoria of that meeting where it appeared as though people were in power who were sympathetic to our cause. We've really heard nothing. The bureaucracy here has not changed. And it appears as though the bureaucracy in Washington is more involved with higher political things than the welfare of a community in the Cuyahoga Valley.

JESSICA SAVITCH. Only a few could afford the money and time to fight the government. So more and more people were leaving the valley.

BURRELL TONKIN. You have to have some authority, you know, to have plan and have progress. But, they could have done it a lot more gently than they did, I think. People, the residents of the valley—not caused as near as much disruption as they have, but I guess they chased all the riff-raff about out now. So, they get us out I guess they can do what they want.

JESSICA SAVITCH. With the destruction of the community nearly complete, Leonard Stein-Sapir was to make one last trip to Washington.

This time the House Interior Appropriations Subcommittee heard his appeal. But the committee was hostile. When forced to sell open land he'd made a profit. Some on the committee questioned his motives implying that his efforts to save his home were insincere.

COMMITTEE MEMBER. Because of the creation of the park.

LEONARD STEIN-SAPIR. Yes, at great financial cost, and most tragically, to no good purpose. All in the name of preservation. Practically without exception, everyone in the valley was in favor of the creation of the recreation area because we knew that eventually developmental expansion would take its toll. However, both our community and Congress were told that an act of this structure would preserve our homes and community by means of preservation easements. And that the remaining open space areas would be purchased in fee. But now, over 425 out of the original 500 homes, in the original park boundaries have been bought out by the government. The tragedy of the Cuyahoga Valley has consistently been justified by its proponents as a great victory for all people, for all time. But I implore you to be suspect of those individuals who are ready to sacrifice the rights of individuals, families and communities, for general concepts of the public good, with no responsibility of the burden or proof. We're fighting this battle, we feel, for all of us. Because if we lose this lonely battle we feel that we will all be the less for it.

LILY FLEDER. It's a beautiful picnic area, no question about it. But there was a home here. We never see anyone using it. Why did the home have to go? Out of 32,000 acres. It's inconceivable to me that Congress could specify in the enabling legislation that this community was to be allowed to remain here and that this was ignored.

JESSICA SAVITCH. Today, the Lindley family property like others in the valley is open space.

Bob and Evelyn have purchased a new farm near Hudson, Ohio. They say they will never go back to the valley.

This was once the Valcanoff's flower shop. But now the Park Service says it may invite some businesses to come back to the valley. But it's too late for Bob and Natalie. They moved their shop to a mall in Akron.

The Erdos home is one of those now owned by the government. It is still unclear how the Park Service plans to use it.

So the family will build a new home, once again, from the ground up. Bill Erdos expects the job will take him ten years.

The little town of Everett remains empty and boarded up. But now there's talk of making it an artist's colony.

This house on the edge of town once belonged to the Tonkins. Like many others, it will be destroyed. Burrell and Grandma have a new place. She is 90 and still in good health.

After four years in federal court, Leonard Stein-Sapir's home was acquired by the government on Christmas Eve, 1982. The family remains in its home but their children are growing up in a dying community.

The school system has been disrupted, two of the churches are closed and the library is struggling to survive.

Leonard continues to fight the government through a class action law suit that he intends to take to the Supreme Court.

When the park was created it was meant for the good of all. It was meant to preserve the community. It was done with the best of intentions. But perhaps it is in the pursuit of the greatest good we should take the greatest care.

UPDATE

JESSICA SAVITCH. The fight over parks continues . . . but there are ironic twists to the story.

Yet another switch in federal policy has occurred since this film was completed. Secretary of the Interior, James Watt, has ordered park managers to come up with "land protection plans", a way to preserve existing properties short of outright acquisition.

While these plans are designed . . . the Park Service has delayed spending money to buy properties, and so across the country, there is a whole new group of property owners . . . angry at the Park Service, but for different reasons, now. They want to sell, but can't. Many testified at a Congressional hearing last month, claiming the delay is hurting them, financially. They're paying interest, taxes on land they can't sell to anyone else, and can't sell to the Park Service.

They've become the newest group of people caught in the struggle over policies, practices, and philosophies in the making of our national parks.

SENATOR BILL ARMSTRONG

Mr. SYMMS. Mr. President, in 1978, a man was elected to the U.S. Senate who had established himself as one of this country's truly great conservative

leaders. Now, after 5 years in the Senate, Senator BILL ARMSTRONG is continuing to prove to America that he is a man of true conviction and determination. BILL ARMSTRONG did not come to Washington to win over the hearts of the people, but to make a difference in our national priorities. He has somehow managed to do both.

As the junior Senator from Colorado, Senator BILL ARMSTRONG is a man of political toughness, undying devotion to his principles, and relentless perseverance. He is ideologically pure in his firm opposition to abortion, his repeated calls for a constitutional amendment to balance the budget, and his support for President Reagan's defense buildup. Senator ARMSTRONG is a real specialist in fiscal matters, and feels it is his main purpose to protect the American taxpayer.

During Senator BILL ARMSTRONG's short stint in the U.S. Senate he has gained the distinguished recognition of being one of the Senate's most respected conservative Members. He is presently serving on three key financial committees in the Senate: Banking, Budget, and Finance, and he chairs the Subcommittee on Social Security and the Subcommittee on Financial Institutions.

Much of the good Senator ARMSTRONG does for this body never reaches the public eye. My colleagues and I know BILL ARMSTRONG as a Senator who is frequently offering a word of encouragement in the darkest hours of this pressure-laden body. He has a strong reputation as one who sticks with his friends even when it is not popular. He is a man with a deep sense of compassion and an unshakable faith in God, and often takes time out of a busy day to hold a Bible study in his office.

A recent article appeared on April 17, 1983, in the Denver Post complimenting Senator ARMSTRONG on his great integrity and legislative knowledge. I have come to deeply admire Senator ARMSTRONG and feel this article would be of interest to other Members of Congress. Mr. President, I ask unanimous consent that this article be printed in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Denver Post, Apr. 17, 1983]

ARMSTRONG IS EMERGING AS GOP STAR

(By Kenneth T. Walsh)

WASHINGTON.—Colorado's Bill Armstrong comes across as the chief choirboy of the U.S. Senate, a clean-cut, plain-spoken, earnest freshman described by one friend as "a very honest guy in a city of double dealers."

But Armstrong's affable image camouflages his ideological fervor, his political toughness and his aggressive desire to make a difference.

The 46-year-old conservative is solidly favored to win a second term next year in Colorado.

But, on a broader stage, he is emerging as a new star in national Republican politics and is increasingly touted as presidential material.

"He's the talk of the conservative movement," said Paul Weyrich, head of the conservative Committee for the Survival of a Free Congress.

"Only two or three people in the whole conservative movement are as uniting as Bill Armstrong," Weyrich told The Denver Post.

Armstrong generally sings the praises of President Reagan, the longtime hero of the Republican right. But the Colorado senator has broken with Reagan on several volatile issues, including Social Security.

Those disputes have centered on issues of conservative purity, where Armstrong thought Reagan was straying from the correct ideological path. And not coincidentally, the issues generally have resulted in national headlines for the Colorado freshman.

Bill Tucker, a Denver lawyer and longtime Republican organizer, said, "Armstrong is definitely a man who marches to his own drummer." And the senator agrees.

Armstrong said in an interview he often will stake out a position as a "benchmark" to help shape debate. "On some issues I have played a Lone Ranger role," he said. "Im not uncomfortable with the idea there are times when my job is to stake out a completely independent position.

"Before you win, sometimes you have to be willing to lose, maybe even several times," he added.

Asked if he has changed while serving in Congress, the senator said, "I think I am better able to accommodate and thrive on frustration than I once was." That frustration almost made him decline to seek a second term in the House in 1974, and Armstrong said that, at times, he still goes home "heartsick" when he loses a vote.

But, he noted, "If you want to advance the political frontier and the intellectual frontier, you've got to be willing to take the hard knocks and absorb defeats."

He also said, "I'm a lot more intellectually tolerant than I was when I first came to Congress."

During more than a decade in Washington—six years in the House and five in the Senate—Armstrong has specialized in fiscal matters. He says that when money is being spent, he wants to be at the table to protect the taxpayers. And he has won positions on the key financial committees of the Senate—Banking, Budget and Finance. He is chairman of the Finance Subcommittee on Social Security.

However, Armstrong argued that his record is more broadbased than many people realize. "My political personality is normally identified with budgetary restraint and not trying to liberalize, but I have done both," Armstrong said. Among his proudest achievements, he said, were helping obtain pay raises for the military and "liberalized" Social Security benefits for women.

In general, Armstrong remains one of the Senate's most conservative members. Foreign policy is a good example.

The freshman Republican said the Soviet Union never has given up its goal of world domination and the United States should try, "in a non-belligerent way, to prevent the expansion of the Soviet Union.

"I'm not suggesting that we send paratroopers into Poland," Armstrong said, stressing that such a solution would be naive and too risky. But he argued that, "We have a responsibility to try and enlarge the frontiers of human freedom."

Armstrong said communism is "morally reprehensible" and agrees with Reagan's description of the Soviet Union as "an evil empire."

"It's a police state," Armstrong said. "Of course it's an evil regime. They intend us harm. They've said so. They've shown it."

The boyish-looking former radio broadcaster is a devout, born-again Christian who bows his head and says grace before every meal, whether it's at a private dinner or a public luncheon.

In an article lauding Armstrong in the February issue of Conservative Digest, Weyrich wrote, "He is a senator who is frequently called on to give a pep talk to a colleague who has hit bottom, to give comfort to someone who has been afflicted, to give witness to the Lord's power and strength when His servants get weak.

"This is a man who will take time out of a busy day to hold a Bible study session in his office with fellow senators and then host other sessions at night in his home," Weyrich added.

A Washington Republican who has known Armstrong for years said, "He's always struck me as enigmatic. I don't know if he ever lets his hair down, so to speak, even with his staff."

Yet in his political life, Armstrong is anything but soft-spoken and retiring. For example, he is a forceful and aggressive campaigner and a excellent fund-raiser, collecting $1 million for his 1978 Senate race. This powerhouse reputation has discouraged any big-name Colorado Democrats from emerging so far as challengers when Armstrong seeks re-election as expected next year. Gov. Dick Lamm and Rep. Tim Wirth, the leading contenders, say they aren't running.

Among those mentioned as possible Democratic candidates are Lt. Gov. Nancy Dick and Treasurer Roy Romer.

Beyond that, the right wing of the Republican Party, led by people such as Weyrich and direct-mail specialist Richard Viguerie, think there are bigger things ahead for Armstrong. In fact, the Republican right increasingly touts the Colorado conservative for the presidency or vice presidency.

Conservatives especially appreciate his ideological purity—his opposition to abortion, his repeated calls for a constitutional amendment to balance the budget, his support for Reagan's defense buildup and his insistence on massive tax cuts.

His fans also are impressed with his diplomacy, his easy-going manner and his disdain for obstructionism. Unlike other right-wing hardliners such as Sens. Jesse Helms and John East, both North Carolina Republicans, Armstrong doesn't set liberal blood to boiling.

"Even when you disagree with him, you can't dislike him," said Weyrich. "He is not a threatening individual."

Weyrich was the one making the comment that, "People see him as a very honest guy in a city of double dealers."

Last February, Armstrong was the second choice for the presidency, if Reagan doesn't run, among members of the Conservative Political Action Conference. The conservatives' first choice was Rep. Jack Kemp, R-N.Y.

Tucker said, "If the president doesn't run, Armstrong would definitely be considered by a number of groups in the country, especially the conservatives. I think Armstrong has to make it known whether he's interested in it and probe as to how wide that support is."

Weyrich said, "I wouldn't be surprised if he ended up on somebody's ticket" for vice president.

But Armstrong seems to have little interest in a national race—at least not now. He apparently is content at this time to play the Senate's chief conservative choirboy, to run for re-election in 1984 and try to keep Reagan faithful to the party line.

Armstrong says Reagan will seek re-election next year and win that for himself he wants only a second six-year term in the Senate.

But if Reagan doesn't seek another term, then the GOP presidential field will be chaotic, and Armstrong's allies expect that fellow conservatives will pressure him to run. Already some members of Armstrong's staff are chomping at the bit. They seem envious of the media attention given to fellow Colorado Sen. Hart, who is seeking the Democratic presidential nomination.

Armstrong also has shown little interest—until recently—in taking a formal leadership position in the Senate. But he told The Denver Post two weeks ago that he might run for Senate majority leader when the job becomes vacant in 1985. The incumbent, Sen. Howard Baker of Tennessee, is retiring from the Senate.

His fellow senators may not find him the most appealing choice to succeed Baker, however, "Some of his colleagues in the Senate don't like him because he has forced them to vote on some issues, like the pay raise, that they didn't want to be forced to vote on," Weyrich said. "They resent it."

As with the question of running for nationwide office, Armstrong's innate caution about majority leader is seen as indecisiveness. "Armstrong is respected for his integrity and knowledge by the rest of the senators, but if he is interested in a leadership position, it's something that he probably should go after early," one Washington Republican said.

This reluctance to commit himself bothers even Armstrong's fans. "He is a little bit slow in making decisions," one widely known conservative told The Post. "He keeps things on the burner, keeps them on the burner and he won't resolve it."

His stubborness also annoys his colleagues, although he rarely antagonizes anyone, this conservative said.

Throughout his political career, Armstrong has chosen his areas of emphasis carefully and sparingly. "He picks his battlegrounds with two things in mind," said Tucker. "One, that he can win but also to make a point."

He doesn't make a splash often, but when he does it's likely to be a big one. One example this year was on Social Security, over which he opposed not only a majority of Congress but President Reagan himself.

Armstrong bucked a congressional tide March 25 and voted against the final plan to bail out the troubled retirement program. The measure cleared the Senate with Reagan's blessing on a 58-14 vote, but Armstrong voted no. He said the final Social Security bill lacked "the ingredient that I felt absolutely essential—a reasonable certainty we had solved the problem."

He said the bill wouldn't guarantee that Social Security would remain solvent and there is a strong possibility that the system will go bankrupt in 1985 or 1986.

One of Armstrong's main objections was that Congress had dropped a provision that if a key Social Security trust fund got into financial trouble, an automatic restraint would be imposed on cost-of-living increases, starting with higher-income individuals.

Armstrong became a major figure in the Social Security controversy from the time he announced he would fight key recommendations of a presidential advisory commission in mid-January. Armstrong complained that the package relied too much on tax increases instead of "benefit restraints."

He won some of his points, such as reducing the administrative burden of Social Security on small business. But he lost on the most important one and was unable to stop Congress from increasing taxes. For example, he tried to eliminate a provision speeding up already-scheduled payroll-tax increases, but the Senate rejected his amendment on a 27-67 vote.

Armstrong's occasional opposition to Reagan's policies hasn't made him popular at the White House. "The complaint is that he's too independent." A presidential aide told a newspaper interviewer "At legislative strategy meetings there has often been more shouting about him than any one else."

Mr. SYMMS. I yield the floor.

RECOGNITION OF SENATOR SPECTER

The PRESIDING OFFICER. Under the previous order, the Senator from Pennsylvania is recognized for a period not to exceed 15 minutes.

Mr. SPECTER. I thank the Chair.

AMERICA'S INLAND WATERWAY SYSTEMS

Mr. SPECTER. Mr. President, I rise today to report to my colleagues on a trip which I made yesterday to visit the Emsworth Locks and Dam on the upper Ohio River to get a status report on the inland waterways system which is so vital not only to western Pennsylvania but to many other States in the area. I came from that visit with a conviction that it is indispensable that we move ahead with dispatch to act to correct the deteriorating locks and dams on that very vital system. This is a problem which has long been with the inland waterways system, with the Emsworth lock having originated in 1921, thus being some 62 years old, and other facilties having been constructed in the twenties so that the entire area is very much in need of repair.

It is an especially critical problem for western Pennsylvania which suffers mightily from the problems of unemployment. As the Nation has been experiencing an economic recovery, that recovery unfortunately has not affected smokestack industries like steel and coal on which western Pennsylvania and the neighboring States rely.

As I held open houses in Washington County, Westmoreland County, Fayette County, and Greene County yesterday, I observed very high unemployment rates, as high as 22 percent in Fayette County. On each of these occasions as I addressed groups in the neighborhood of 100 to 150 in the open houses and asked how many people in the audience were unemployed and in search of work, anywhere from one-third to one-half of the hands were raised. It was obvious to me that more has to be done on the problem of unemployment, especially as it affects an area like western Pennsylvania. If the inland waterways system is not corrected, there will be a loss imminently of 17,000 jobs. It is vital that modernization and replacement of the appropriate locks and dams move ahead at an early date if they are to be completed in time to save the deteriorating inland waterways system from complete collapse.

During the course of the past several weeks, I have had occasion to confer with representatives from the Army Corps of Engineers. I have been very much impressed with their professionalism and with their studious approach to the issue of correcting the defects in the inland waterways system.

I have been impressed at the same time with the very slow process of completing the appropriate authorizations and appropriations to make those necessary repairs.

The item of tremendous importance at the present time is action on locks and dams 7 and 8 where the matter has been under serious consideration for more than a decade. However, we are still far from action unless there is activity initiated very promptly within the Committee on Environment and Public Works. Toward that end, I am today writing to Chairman ROBERT STAFFORD and also to the Chairman of the Subcommittee on Water Resources, Senator JAMES ABDNOR, bringing them up to date on my findings yesterday and the need for action on these two particular locks and dams. But I think the matter is of sufficient importance and involves sufficient States that it ought to be a matter for the Senate itself to be aware of and to act upon.

As to locks and dams 7 and 8, there had been a recommendation from the Secretary of the Army back on May 5, 1972, for a replacement of existing lock and dam 7 and existing lock and dam 8 with new and larger structures. The Secretary authorized the recommended work on October 13, 1973, under the 1909 River and Harbor Act authority. Unfortunately, there was litigation in another jurisdiction which ruled that the Secretary did not have the authority which he had exercised as to locks 7 and 8, and that matter was set back very materially.

There have been additional studies under way since 1976, but the course of the study process presents a timetable that the final report will not be submitted to Congress until 1986. If that is done, we will be losing a tremendous amount of very valuable time. That is why I am urging today

that the Committee on Environment and Public Works authorize the replacement of locks and dams 7 and 8 at this time without awaiting the formal report which may take as long as 2 more years.

On an information paper from the corps, it was disclosed that "a survey report (expected to be favorable toward replacement) is scheduled for completion in fiscal year 1984." But, as I say, that report will not be in the hands of the Congress for approximately 2 years. The valuable time that would be lost in terms of avoiding further deterioration would be extremely serious if we do not act now to have a prompt authorization for the replacement of locks and dams 7 and 8.

If any later processing should disclose that such an authorization has not been included, there would always be time for corrective action through the appropriations process.

There is still another issue of importance on the need for immediate action, and that is on the Gallipolis Lock and Dam. It is my understanding that Chief's report on this project is presently in the Office of Management and Budget and has not yet moved through all of the procedural steps. Here again, unless immediate action is taken, there will be irreparable damage done. Accordingly, I urge Senator ABDNOR and the Subcommittee on Water Resources and Senator STAFFORD and the Committee on Environment and Public Works to act to see that that authorization is done and done promptly.

Mr. President, the renovation of our infrastructure on items like the inland waterways system in the western Pennsylvania-Ohio-West Virginia area is a matter of tremendous importance. It has to be addressed and addressed promptly. We have talked about related subjects on the jobs bill in an effort to expedite the flow of funds for jobs, and although we acted on that matter months ago it has taken a great deal of time to have those funds filter down into a jobs program. Action should be forthcoming very promptly on matters such as those that I have addressed today and the important nationwide issue of the condition of the infrastructure on our water resource system. We simply cannot allow these matters to take their normal course, because, regrettably, the process takes too long to address the immediate need and because the deterioration is too extensive to be put off any longer. The improvement of the waterway system ties in with an effort to revitalize the economy and provide jobs. I thank the Chair and I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER (Mr. GORTON). Under the previous order, there will now be a period for the transaction of routine morning business not to extend past 11:50 a.m. with statements limited to 3 minutes each.

A TRIBUTE TO FRANK T. GALARDI

Mr. THURMOND. Mr. President, I rise today to pay tribute to a compassionate and public spirited citizen, my good friend, Frank T. Galardi, of Aiken, S.C., who passed away June 15, 1983. To his lovely and devoted wife, Betty, and family I express my deepest sympathy.

Frank's life was truly dedicated to serving others, and one need only consider his numerous accomplishments to realize the many contributions he made to his hometown and State. The achievements of this patriotic gentleman have been recognized by many, and he received such outstanding distinctions as the Order of the Palmetto, South Carolina's most prestigious citizen award, In addition, he was named Man of the Year by the Greater Aiken Chamber of Commerce and International Goodwill Ambassador by the Aiken Rotary Club.

Frank Galardi leaves behind a large circle of friends, including myself, who feel a great sense of loss in his passing. Yet, his impact on the lives of his fellow man and his humanitarian influence in the community and State will long be remembered.

Mr. President, Frank Galardi's life is, indeed, worthy of emulation. In order to share with my colleagues more about this remarkable man, I ask unanimous consent that an editorial from the Aiken Standard be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FRANK T. GALARDI

Frank T. Galardi was one of Aiken's natural assets and a rare one at that.

He came to this city 32 years ago determined to make himself useful and in doing so to make Aiken a better place. In that he succeeded spectacularly.

Attesting to that were awards from many organizations and commendations from heads of several foreign states.

Mr. Galardi was, about all, a promoter of good causes. Whether it was providing lights for a youth athletic field or raising funds for a child stricken with a rare and expensive disease, he was ready to marshal the support of the community behind the cause and to get it done.

As United Way's public relations chairman, he succeeded in bringing country music star Loretta Lynn to a public concert at the Jaycee fairgrounds. The Fourth of July celebrations he promoted at Barry Traughber Field—another of his projects—were memorable events for which the whole town turned out.

His idea for "Thanksgiving in America," through which scores of foreign servicemen stationed at Fort Gordon were invited as Thanksgiving day guests of families in Aiken, received national recognition, and the Aiken Rotary Club named him its International Goodwill Ambassador. A prayer breakfast for young people was one of many projects he initiated for young people.

A New Yorker by birth, he was a loyal South Carolinian and was particularly proud of the Order of the Palmetto award given him by Gov. John C. West.

He was also Man of the Year of the Greater Aiken Chamber of Commerce and he received the Service to Mankind Award from the district organization of Sertoma Clubs. He had served on the board of the Aiken Rehabilitation Workshop since 1967 and was instrumental in establishing the Workshop Activities Center for handicapped high school students.

He had also served as chairman of the Heart Fund.

After 70 years—much of it spent in good works—Mr. Galardi's own heart gave way on June 15. He left behind a devoted family, a multitude of friends and a community that will long remember the impact he made in the years he spent here.

A TRIBUTE TO JOE DELANEY

Mr. EAGLETON. Mr. President, the people of Kansas City and the Nation suffered a terrible loss on June 29 when a heroic young man, Joe Delaney, lost his life attempting to save two young boys who were struggling in a pond in Monroe, La.

Twenty-four-year-old Joe Delaney, the star running back of the Kansas City Chiefs, felt impelled to help when he saw the plight of the youths. Such was the courage and determination of this outstanding athlete that he could not stand idly by. Sadly, both Mr. Delaney and one of the youths lost their lives.

The achievements of Joe Delaney in the National League were truly sensational. In his rookie year, 1981, he set a Chiefs single-game rushing record of 193 yards against the Houston Oilers. Mr. Delaney went on to finish the season with 1,121 yards for a new Chiefs single season record and was the only rookie starter on the American Conference Pro Bowl team. One opponent said of him, "I've played against O. J. (Simpson), Gale Sayers, Walter Payton, and (Delaney) ranks right up there with the best of them," Houston defensive end Elvin Bethea told the Kansas City Times, "He is great, with a capital G," Mr. Bethea added.

Mr. President, I could fill pages of the RECORD with accolades from Joe Delaney's coaches, his teammates, and his opponents about the greatness he achieved on the field and the boundless potential he exhibited.

More important, however, is that we honor him for the ultimate sacrifice he made when he went to the aid of those struggling youths. All who knew him spoke of his generous spirit, his desire to improve the lives of others. Perhaps A. L. Williams, his college coach at Northwestern Louisiana State, said it best when he said of Joe

Delaney, "He wasn't a big man, but he had a tremendous heart."

Great athletes enrich the lives of all of us who marvel at their achievements in sport. Joe Delaney's greatness transcended the playing field immeasurably, making him irreplaceable as a human being. He will be badly missed.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WILSON). That will be the order.

UNANIMOUS CONSENT AGREEMENT

Mr. BAKER. Mr. President, the order previously entered provides that the Sentae will go to the consideration of the defense authorization bill at 11:50 a.m. I have discussed this matter with the manager on this side, the chairman of the Armed Services Committee, with the minority leader, with the Senators from Ohio and Michigan, and I believe the request I am about to make is part of a plan that is agreeable on all sides.

First, Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of the Department of Defense authorization bill and then, as soon as the bill is laid down, I ask unanimous consent that the distinguished Senator from Ohio be recognized for the purpose of withdrawing his appeal from the ruling of the Chair, to be followed by the recognition of the Senator from Texas who, I believe, will then withdraw his point of order, and that the Chair will then put before the Senate the motion made by me on yesterday to waive section 402 of the Congressional Budget Act of 1974 as it pertains to S. 675.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. The last part would be automatic.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is now closed.

OMNIBUS DEFENSE AUTHORIZATIONS, 1984

The PRESIDING OFFICER. The clerk will state the pending bill by title.

The legislative clerk read as follows:

A bill (S. 675) to authorize appropriations for fiscal year 1984 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes.

The Senate resumed consideration of the bill S. 675.

The PRESIDING OFFICER. The Senator from Ohio is now recognized.

Mr. METZENBAUM. Yesterday I deemed it appropriate to raise certain issues pertaining to certain matters in the Department of Defense authorization bill and certain budgetary considerations in connection therewith. I did so in order that we might highlight certain issues that will indeed be considered during the consideration of the Department of Defense authorization bill.

At that particular point a point of order was made with respect to a colloquy that was occurring at that time concerning Senator KENNEDY and myself, and the point of order was ruled to be well-taken. I then appealed that ruling.

It is now my understanding that the point of order will be vitiated, and certainly under those circumstances, I will withdraw my appeal from the ruling of the Chair and I, therefore, withdraw my appeal.

Mr. TOWER. Mr. President, I ask unanimous consent that the point of order raised by me on yesterday pursuant to rule XIX be vitiated.

The PRESIDING OFFICER. Without objection, that will be the order.

The question is on agreeing to the motion of the majority leader to waive section 402 of the Budget Act of 1974.

The motion was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I point out that the order provides that at 12 noon the Senate stand in recess for 2 hours in order to accommodate the requirements of caucuses on both sides of the aisle.

I yield the floor.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, as chairman of the Strategic and Theater Nuclear Forces Subcommittee, I rise to outline, in brief, the principal actions of the Armed Services Committee incorporated in the fiscal year 1984 omnibus defense authorization bill (S. 675), as they relate to programs falling within the subcommittee's jurisdiction.

The legislation now before the Senate represents, in my judgment, the best efforts of the Armed Services Committee to provide the proper balance between meeting pressing requirements to modernize as well as maintain our forces and operating within strigent budgetary constraints. I believe the thorough hearing record compiled by our subcommittee fully justifies a substantially greater allocation of resources for these purposes than that contained in this legislation.

In seeking to comply with the funding levels dictated by the first concurrent budget resolution, however, we have been obliged to base many of our actions on purely budgetary considerations, and not fully meet the challenges to our security or the urgent need to more adequately modernize our strategic forces. Security and modernization are the factors that should legitimately dominate all of our decisions relating to defense programs. Consequently, the commander has been forced to reduce programs for which there exists a validated military requirement. Not only do such actions have a detrimental impact on our national security; cost increases and programmatic inefficiencies will also be incurred—ultimately adding significantly to the expenditures required for a given level of defense effort.

With that introductory caveat, let me now turn to a brief description of the major actions that have been provided by the Armed Services Committee.

THE MX MISSILE SYSTEM

In accordance with programmatic changes recommended by the Scowcroft Commission and endorsed by the President, the committee incorporated the following adjustments to the requested funding levels for MX:

The $2.64 billion sought for research and development of the MX missile system was reduced by $740 million. Of this amount, $604 million is to be expended for research and development of "follow-on technologies." Specifically, the full request of $279 million is recommended to initiate advanced development of a "small" ICBM, called midgetman.

The request of $2.54 billion for procurement of 27 MX missiles and related materiel was decreased by $332 million from savings realized as a result of the revision of the deployment program from one involving closely spaced basing—"Dense Pack"—to deployment of 100 MX's in Minuteman silos.

Two important statutory provisions were adopted: The first is intended to facilitate the realization of a December 1986 initial operational capability for the MX by stipulating in bill language a date for completing the draft and final environmental impact statement of January 1, 1984, and by permitting an immediate go-ahead on site specific design and related activities.

The second is designed to insure that the further procurement of oper-

ational MX missiles conforms to and supports the United States national security interests and objectives. Specifically, the President is required to submit, together with any request for procurement of such operational missiles, his assessment of:

First, the degree to which current and projected international conditions require the procurement for operational purposes of such missiles;

Second, the impact of such procurements upon the stability of the strategic balance; and

Third, the effect such procurements, if approved by the Congress, are likely to have upon achieving negotiated reductions in the nuclear forces of the United States and the Soviet Union through sound, equitable, and verifiable arms control agreements.

Mr. President, I wish to acknowledge, with respect to that last statement, the helpful assistance and guidance of my distinguished colleague from Georgia, Mr. NUNN. The three items just enumerated were couched in an amendment that Mr. NUNN and I submitted to the committee as a whole.

Mr. President, I regard this requirement, which I had the pleasure of cosponsoring, as I said, with my distinguished colleague from Georgia, Senator NUNN, to be a major contribution to the goal many of us share—namely, of insuring the continued compatibility of the MX program with America's arms control objectives.

B-1B BOMBER

Turning now to the B-1B bomber program, the committee authorized the full $6.2 billion requested for the B-1B program. The bill includes funding and the requisite bill language needed to initiate multiyear procurement of 92 B-1B aircraft, the first 10 to be bought in fiscal year 1984.

This sum includes $3.761 billion for procurement, $1.865 billion for advanced procurement, and $500 million for initial spares. Also recommended for authorization is $749.9 million for B-1 associated research and development.

Mr. President, considerable interest has been expressed in the recommendation of the Subcommittee on Strategic and Theater Nuclear Forces to reduce the request for the B-1B by $888.7 million.

The subcommittee reluctantly agreed to recommend for consideration by the full Armed Services Committee a very significant modification to the B-1B program. It did so for one overriding reason: the budgetary constraints imposed by the Congress compelled us to do so. As I said at the outset of my remarks, the first concurrent budget resolution forced us to consider adjustments to various programs like the denial of multiyear authorizations and the stretching out of procurement programs—steps which provide, in some cases, considerable near-term savings at the expense of greatly increased long-term costs—in order to comply with congressional direction.

The full committee, however, made clear its desire to preserve intact the B-1B program as requested by the administration. In fact, a bipartisan majority of the committee voted to initiate multiyear procurement of the remaining 92 B-1B aircraft, thereby not accepting the recommendation of the subcommittee.

I wholeheartedly support this approach and am pleased that a costly and inefficient redirection of the B-1B program could be avoided.

TRIDENT (SSBN)

Turning to other significant strategic and theater nuclear forces-related actions, the committee approved the procurement of 1 Trident submarine. It did, however, reduce the requested level of funding by $73.1 million—a savings made possible due to revisions in the Navy's pricing estimates. In addition, $197.4 million was reduced from the request for Trident submarine cost-growth funding to bring the request in line with actual fiscal year 1984 expenditures.

TOMAHAWK

Another sea-based program, the Tomahawk missile was addressed by the committee. The procurement of 56 nuclear, land-attack Tomahawks (TLAM-N's) for deployment on surface ships was deferred pending a report from the Navy detailing the plans for their operational employment. At the same time, the procurement of 56 TLAM-N's for deployment on submarines was approved, as well as the procurement of 32 antiship Tomahawks—an increase of 20 over the request. In a related action, the planned schedule for amortizing the cost of production for tooling and test equipment was stretched out. I might note parenthetically that a similar action was taken in the ground-launched cruise missile program. As a result of these adjustments, the committee recommends $350.7 million for the procurement of 88 Tomahawks, a reduction of $106.2 million and 36 missiles from the request. The request for R&D was fully funded.

ALCM

At the administration's request, a total of $355 million was added to continue through fiscal year 1984 production of the air-launched cruise missile (ALCM-B). Consequently, this bill provides authorization for production of 240 ALCM-B's in fiscal year 1984; $23 million was added to the request for R&D, for a total of $51.55 million, to aid in the development of an advanced engine for the ALCM-B. The procurement costs associated with the ALCM-B production were fully offset by a requested adjustment in advanced air-launched cruise missile activities.

KC-135 REENGINING

Turning now to the KC-135 reengining. This is a program to modernize America's tanker fleet which supports the B-52 bomber force of today and will support, hopefully, someday, the B-1 bomber force.

For procurement associated with KC-135 reengining $550 million was authorized—a reduction of $325.8 million from the request. This reduction incorporates a denial of multiyear funding, and a rate reduction from 31 to 27 modifications in fiscal year 1984. In addition, a total of $147.7 million was added for procurement and installation of the remaining 32 JT-3D kits needed to complete that modification program on Air National Guard tanker assets.

BALLISTIC MISSILE DEFENSE

The committee authorized $391.24 million for the BMD system technology program, a reduction of $147.135 million from the request. This action was due largely to budget constraints and uncertainties attending the purpose and direction of this program in the aftermath of the revision to the MX program and the President's address concerning space defense. This funding level provides for the fiscal year 1983 level of effort, adjusted for inflation.

FEMA—CIVIL DEFENSE

In view of the budget constraints imposed by the Congress, funding for attack-related civil defense was reduced by $92.02 million. The $161.5 million authorized by this legislation for fiscal year 1984 provides for 5 percent real growth in this program.

DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

Mr. President, for the first time the committee has incorporated the annual authorization for the Department of Energy national security programs within this Omnibus Defense Authorization Act. A total of $6.56 billion is authorized for these purposes in fiscal year 1984—a reduction of $199 million from the administration's request.

These funds support the research and development, production, surveillance, and retirement of the nuclear weapons that are the heart of our nuclear deterrent. The reductions recommended are primarily derived from deferring capital investment programs for another year.

CHEMICAL PREPAREDNESS

Finally, Mr. President, let me describe briefly the committee's options with respect to a highly important and extremely controversial aspect of the administration's national security agenda: Chemical preparedness.

The committee adopted statutory language which precludes the final as-

sembly of retaliatory chemical munitions until at least October 1, 1985. Such assembly may only be undertaken after that date if the President certifies that the final assembly of these weapons is essential to the national security. In the meantime, however, steps may be taken to prepare production facilities and procure components that ultimately could be utilized for 155-mm binary chemical munitions. S. 675 provides the requisite funds necessary to initiate such steps.

The committee's action is an acknowledgement of the sharply divided sentiment which exists concerning the retaliatory element of the U.S. chemical deterrent. While substantial difference of opinion exists in the Congress and elsewhere concerning the advisability of resuming chemical weapons production in this country after a 14-year moratorium, on one point little disagreement exists: The desirability of negotiating a sound, verifiable and global ban on chemical warfare.

It is the committee's hope that its recommendation concerning final assembly of 155-mm chemical artillery shells will be recognized for what it is: A clear signal that the United States does not wish to resume full production of these heinous weapons. On the other hand, it also makes clear the fact that the United States will no longer reward Soviet intrasigence in negotiating an effective chemical weapons ban by indefinitely refraining from taking steps needed to keep its chemical deterrent credible.

CONCLUSION

Mr. President, I urge my colleagues to review with care the work of the Armed Services Committee on this issue and the others I have mentioned. I believe the committee has acted prudently and provided, by its recommendations, as sensibly and responsibly for the common defense as possible given the budgetary constraints imposed upon us by the congressional budget process. I look forward to the opportunities which upcoming debates on some of these matters will afford to amplify upon the committee's work on this important legislation.

Mr. President, I yield the floor.

Mr. THURMOND. Mr. President, the chairman and ranking minority member are to be commended for their efforts in preparation of the Omnibus Defense Authorization Act for Fiscal Year 1984.

The hearing record is very detailed and supports the decisions made by the full committee. Although reductions had to be made, great care was taken in the evaluation of the programs that had to be reduced or, in some cases, terminated to insure that we could provide sufficient funding for our national defense.

This omnibus bill is significant in that it includes the Department of Energy authorization and the military construction authorization, which in previous years have been submitted to the Senate for consideration as separate bills.

I would like to call to the attention of my collegues title II of the omnibus bill which is the title concerning military construction.

The President's request for new military construction projects and for funds to operate and maintain the Defense Department's inventory of military family housing was $8.5 billion. The recommendation of the Armed Services Committee reduces that request by $1.1 billion.

The reductions made were forced upon us by budgetary constraints and, unfortunately, many valid military requirements had to be deleted that would have improved the working and living conditions of our service men and women. It is particularly displeasing to cut construction funds for military purposes at the same time that Congress is considering and acting on jobs bills to aid the unemployment situation in the construction industry.

There are two aspects of title II that I feel are particularly noteworthy. First, where possible, the Armed Services Committee has taken advantage of projected savings that will accrue as a result of the excellent bidding environment in the construction industry. Bids in recent months have averaged 12 to 15 percent less than the amount programmed for the projects. Each service has a specified list of projects that are authorized to be built with savings that accrue during fiscal year 1984.

Second, we have initiated a program concerning military family housing overseas. The Department of Defense has been directed to use U.S. manufactured or factory-built housing to satisfy urgent housing requirements.

This is a departure from the normal practice of turning funds over to the host nation and letting them build the housing for us. This new approach is expected to be cost competitive with normal foreign-built housing, but it will reduce the amount of U.S. dollars going overseas, and it should help the domestic manufactured housing industry.

Also, of importance in the omnibus defense bill, is the addition of approximately $1 billion above the administration's request for equipment purchases for the National Guard.

Included in this addition are F-16 fighter aircraft, product improved Vulcan air defense weapons and ground support equipment, all of which should greatly enhance the readiness of the National Guard. As the number of military eligible young men and women decreases in the years ahead, we will have to rely more and more on the Guard and Reserve.

These equipment purchases are indicative of congressional interest in the readiness of our Reserve components and should be continued in the years ahead.

The highlights of the Omnibus Defense Authorization Act for fiscal year 1984 are as follows:

	Billions
Procurement	$87,488
Research, development test, and evaluation	26,814
Operation and maintenance	71,590
Civil defense	162
Military construction	7,349
DOE weapons programs	6,557
Total	199,959
Manpower:	*Thousand*
Active	2,143
Selected Reserve (National Guard and Reserve)	1,035
Civilian	1,054
Total	4,232

Mr. President, I urge my colleagues to support S. 675 as reported to the Senate.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER, Under the previous order, the Senate will stand in recess until 2 p.m.

Thereupon, the Senate, at 12 noon, recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. LUGAR).

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the committee amendment to S. 675.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1458

Purpose: To prohibit funds appropriated for the Advanced Technology Bomber program from being used for any other purpose)

Mr. BYRD. Mr. President, I send an amendment to the desk and ask that it be stated by the clerk.

The PRESIDING OFFICER. The clerk will state the amendment.

The bill clerk read as follows:

The Senator from West Virginia (Mr. BYRD) proposes an amendment numbered 1458.

On page 158, between lines 8 and 9, insert the following new section:

PROHIBITION AGAINST USING FUNDS APPROPRIATED FOR THE ADVANCE TECHNOLOGY BOMBER PROGRAM FOR ANY OTHER PURPOSE

SEC. 1026. None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced

Technology Bomber program may be used for any other purpose.

THE STEALTH BOMBER PROGRAM

Mr. BYRD. Mr. President, I send an amendment to the desk designed to protect the Stealth bomber program. It prohibits funds in the bill authorized for Stealth to be reprogrammed for any other purpose. As I understand it, the Stealth program is on track, is exciting, and represents the cutting edge of advanced American technology. As a highly classified program, it has no visible national constituency to protect it. So in the next few years, if cost overruns in other U.S. hardware programs occur, as is very possible, there might be a strong temptation to raid the Stealth account. This amendment is designed to prevent any diversion of funds for this crucial program.

The major advantage the United States has over the Soviet Union is in the area of our high technology. We dare not permit this advantage to flag. It is important to take all steps to retain this advantage, to fully fund our key programs.

The Nation needs a new intercontinental strategic bomber, one which is versatile and capable of performing a full range of missions. The combination of new technologies being incorporated into Stealth will permit that aircraft to penetrate Soviet airspace for many years into the future—beyond the turn of the present century. In effect, the technology renders obsolete a Soviet air defense network worth hundreds of billions of dollars.

In addition, Mr. President, the Stealth bomber will be capable of performing the range of other missions we would rightfully expect of any new intercontinental bomber.

The funding levels of the Stealth program are highly classified. The progress of the technology is highly classified. The most that can be said today is that the technology represents the best of U.S. technology and is progressing satisfactorily. When the program reaches fruition, I am sure that our efforts to protect its development, to keep it on track today will be rewarded.

Many Senators, Mr. President, have become increasingly concerned that there is a mismatch between the range of weapons systems being procured with the dollars available over the next several years. If, as is feared, those dollars become thinly stretched among the many competing programs, there will be great temptation to slow down the development of many of these systems.

This amendement is intended to serve notice that such stretchouts, such waffling, will not be tolerated in the area of Stealth technology. We will not permit any of the money dedicated to this program to be diverted to competitor weapons systems. Nor do we expect anything less than the full funding of the program, consistent with prudent management practices—from now through the initial operating capability (IOC) and finally until the full operating capability (FOC) of Stealth is achieved.

Mr. TOWER. Mr. President, the amendment of the distinguished minority leader comports with what I think is the sense of our committee on this matter. That is that the advanced technology bomber funds be programed for these purposes and not for any other system. This is a priority system as far as our committee is concerned. Therefore, I think the amendment certainly comports with the spirit of the bill and the will of the committee as I understand it.

Mr. JACKSON. Mr. President, I concur in the comments of the distinguished chairman of the committee and the distinguished minority leader. The 18(b) program is one of our most important strategic programs. The distinguished minority leader is saying, in effect, that the funds here should be fenced off from any other use for that purpose. I strongly support the amendment and I hope that it will be unanimously approved. I commend the distinguished minority leader.

Mr. BYRD. Mr. President, I thank the distinguished manager of the bill (Mr. TOWER) and the distinguished ranking manager (Mr. JACKSON) for their comments and their support.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1458) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, we have a number of amendments Senators have indicated they intend to offer. I think we have a total now of around 30. I expect that number to grow. The majority leader has already expressed his intention to work late hours, if necessary, and to work through the weekend, if necessary, to complete the bill this week. It is, I know, his intention to do that if at all possible. It is certainly, I think, the desire of the distinguished ranking minority leader (Mr. JACKSON) and myself to complete this bill with as much dispatch as possible. I hope that we shall not have to resort to a weekend session.

I understand that there will be a protracted debate on one or two issues. I expect that might come later in the proceedings, after we have disposed of a number of other matters.

In any case, Mr. President, we have our work cut out for us. I hope Senators will be forthcoming and come over and offer their amendments when they are asked to do so.

We are, of course, running into the usual problem of having a number of amendments, but also a number of Senators who say they are unprepared to offer them this afternoon. I hope we can break through that logjam and get those amendments over here and offered.

It is my intention to try to offer these amendments in a kind of sequence, if the proponents of these amendments would agree to that. Then we could deal with all amendments relating, for example, to technical aircraft procurement or all amendments relative to Army procurement, amendments relative to strategic systems, and deal with them on a categorical basis in an orderly way, so that interested Senators will know at about what point in time amendments in which they have an interest will come up and areas in which they have an interest will be dealt with.

I shall not attempt to do that now, but I hope that, at some point, we can organize our business in that fashion. In the meantime, if Senators are prepared to offer amendments, I shall be delighted to urge or recommend to the Chair that those Senators be recognized.

Seeing none at the moment, Mr. President, I think we can probably get on the telephone and suggest to some Senators that now would be a propitious time to offer them.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR POWERS RESOLUTION VOIDED

Mr. GOLDWATER. Mr. President, I wish to take a moment to comment on the Supreme Court's decision, announced on June 23, which held that the so-called legislative veto by congressional resolution is a violation of the separation of powers doctrine of the U.S. Constitution. In particular, I want to address the Court's decision in the context of the war powers resolution which the Congress voted over the President's veto in 1973.

Mr. President, I believe the same reasoning and same constitutional analysis which the Supreme Court applied to the legislative veto will have the effect of invalidating the war powers resolution. That statute itself includes a legislative veto as the very heart of its purported method of enforcement and the resolution is clearly

a dead letter to the extent of its reliance on the now-declared unconstitutional legislative veto.

But more than that, Mr. President, the strong six-Justice majority opinion written by Chief Justice Warren Burger indicates that the basic premise of the war powers resolution is unconstitutional. Congress attempts in the war powers resolution to assume unto itself the ultimate and controlling power over the use and deployment of U.S. military forces in defense of the lives, freedoms, and rights of U.S. citizens and our Nation.

This is an invalid action because Congress cannot encroach on a responsibility of the President. Just as the Supreme Court ruled in the legislative veto case that Congress overstepped its authority by invading the constitutional boundaries of the executive branch, so it would have to rule that the war powers resolution exceeds those boundaries if the Court decides to reach the constitutional question on the merits.

Congress cannot usurp the powers vested by the Constitution in the President even if the Chief Executive has assented to the particular piece of legislation which contains a provision contrary to the Constitution. This is the expressly stated ruling of the Court in the case announced last month by Chief Justice Burger, Immigration Service against Chadha.

Of course we know that the President never gave his assent to the war powers resolution. President Nixon vetoed it and Congress overrode his veto. But this strengthens the arguments against that statute. Where the President specifically objects to and denies the authority claimed by a piece of legislation, the validity of the challenged statute is on even weaker ground than it was in the legislative veto case.

This conclusion becomes evident when we examine what Chief Justice Burger wrote about the specific power Congress asserted in the legislative veto case, which was an effort by Congress to control decisions involving the deportation of certain aliens. In that case, Congress asserted plenary authority over aliens under a power which is specifically granted to it by article I, section 8, clause 4, of the Constitution. Even so, wrote Chief Justice Burger, the authority of Congress over the particular subject "is not open to question, but what is challenged here is whether Congress has chosen a constitutionally permissible means of implementing that power."

Applying this same analysis to the war powers resolution, we can see that a similar result would follow. It is true that Congress has concurrent authority in the field of military and defense matters. It is true that Congress must appropriate moneys for the Armed Services at least every 2 years, that Congress possesses the power to declare war, and that Congress may establish a military justice system.

The flaw in the war powers resolution, however, is that the Congress has attempted to exercise its power in a way which offends other constitutional restrictions. In the legislative veto case, the Supreme Court put its basic reliance upon the precise terms of section 1, article, I, of the Constitution, which provides:

All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives.

If the Supreme Court should ever consider a case involving the war powers resolution, the Court would similarly rely on an equally explicit provision of the Constitution, which is the first section of article II. This section provides:

The executive power shall be vested in a President of the United States of America.

Also, the Supreme Court would rely on the first paragraph of section 2 of article II, which declares in precise terms:

The President shall be Commander-in-Chief of the Army and Navy of the United States, and of the militia of the several states, when called into the actual service of the United States. . .

Just as the Court held that the provisions of article I are integral parts of the constitutional design for the separation of powers, the Court must find in a similar vein that the provisions of article II are woven into the fabric of the separation of powers concept.

The history of the 13 separate states prior to the Constitutional Convention of 1787, the evolution in the early State constitutions from weak executives to strong executives, the discredited interference by the Continental Congress with military actions of General Washington during the War of Independence, and the entire course of practice under the Constitution from the administration of President Washington to the current administration of President Reagan, all combine to demonstrate beyond any reasonable doubt that the fundamental and ultimate power to employ the existing forces of the United States in defense of citizens and the survival of our country, in reaction to foreign dangers, rests with the President.

Once the military forces are established, once an Air Force and a Navy and an Army and a Marine Corps are created, it is for the President to decide how to deploy and use those forces. That is an executive power. It is within the class of executive authorities that the Framers had in mind when they drafted section 1 of article II of the Constitution and conferred upon the President all the executive powers of the United States. And, these military defense powers are precisely what the Framers contemplated when they expressly provided that the President, not the Congress, but the President, is the Commander-in-Chief of the Armed Forces.

Thus, it is a violation of the separation of powers for Congress to attempt to claim for itself the supreme direction of the Armed Forces. Congress has attempted to do that in the War Powers Resolution and the action of Congress is in direct contradiction to other specific restrictions of the Constitution and of the separation of powers.

Congress cannot invade an executive function. Congress cannot set itself up as the Executive. Congress cannot concentrate unto itself all the powers of the Government which the Framers deliberately allotted among three separate branches.

That is the lesson of the Supreme Court's decision in the legislative veto case and I hope that my colleagues in Congress will reflect long and hard on that meaning of the case so that we may someday reach the point when we will openly repeal the unwise and unconstitutional War Powers Resolution.

Mr. President, in the event that some of my colleagues, who were not here at the time the Congress acted on the War Powers Resolution, may be aware of the conflict between that resolution and the Constitution and history of our country, I ask unanimous consent that an article discussing the subject, written by J. Terry Emerson, my staff counsel, may be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From 2 Strategic Review 44, Winter 1974]

IMPERATIVES OF THE PRESIDENT'S WAR POWERS

(J. Terry Emerson)

"In every circle, and truly, at every table, there are people who lead armies into Macedonia; who know where the camp ought to be placed; what posts ought to be occupied by troops, when and through what pass that territory should be entered; where magazines should be formed; how provisions should be conveyed by land and sea; and when it is proper to engage the enemy, when to lie quiet . . . What then is my opinion? That commanders should be counseled, chiefly, by persons of known talent, by those who have made the art of war their particular study, and whose knowledge is derived from experience; from those who are present at the scene of action, who see the country, who see the enemy, who see the advantages that occasions offer, and who, like people embarked in the same ship, are sharers of the danger. If, therefore, anyone thinks himself qualified to give advice respecting the war which I am to conduct, which may prove advantageous to the public, let him not refuse his assistance to the state, but let him come with me into Macedonia. He shall be furnished with a ship, a horse, a tent; even his traveling charges shall be defrayed. But if he thinks this too much trouble, and prefers the repose of a city life to the toils of war, let

him not, on land, assume the office of a pilot."—LUCIUS AEMILIUS PAULLUS, Roman General, 168 B.C.

On May 19, 1973, after nine years of direct United States involvement in Indochina, the House of Representatives cast its first vote in favor of ending military activities there. Though President Nixon vetoed this bill, which would have barred use of all funds to conduct American combat activity in Cambodia and Laos, Congress promptly passed a second appropriations bill with a broadened prohibition applicable to North and South Vietnam as well as Cambodia and Laos. This ban became effective on August 15.

On September 20, the Senate began work on the military weapons procurement bill. With the United States and the Soviet Union about to resume nuclear strategic arms talks in SALT II and with an October 30 date set for beginning negotiations between the opposing NATO and Warsaw Pact nations on the subject of mutual reduction of armed forces in Europe, the Senate approved an amendment to unilaterally cut overseas land-based troops by 110,000 by the end of 1975. Another amendment passed requiring a reduction in the numbers of United States troops in NATO countries. A renewed ban on the use of funds to finance the involvement of American military forces in hostilties in or over or from off the shores of North and South Vietnam, Laos, or Cambodia was accepted without debate.

Conferees later deleted the unilateral reduction of 110,000 troops overseas, but a provision requiring the withdrawal of NATO forces proportionate to the balance of payments deficit caused by stationing our troops in Europe and a prohibition aganist United States military actions in Indochina were both contained in the law signed by President Nixon on November 16.

Meanwhile, blunderbuss provisions shutting off all funds to the Department of State, USIA, and other foreign affairs agencies upon failure to supply information requested by certain Congressional Committees were attached by the Senate Foreign Relations Committee to the USIA, State Department and foreign economic aid bills. Congress eventually deleted the provision from the State Department and AID bills and sustained President Nixon's veto of the USIA bill.

A Senate attack on executive agreements also failed. Two amendments prohibiting the implementation of the 1971 Azores military base agreement between the United States and Portugal or any future base agreements with foreign countries, unless the agreements were submitted to the Senate for its advice and consent, were dropped in conference from the State Department bill.

THE WAR POWERS RESOLUTION

But the major battle of 1973 dealt with the heart of the war powers issue—the circumstances in which war or the threat of war can be used as an instrument of national policy. Here Congress emerged as the clear victor, at least for the moment. For the first time in history, legislative policy restrictions governing the waging of war became part of American law. This was no exercise of the power of the purse, tied to an appropriations measure. This proposal, House Joint Resolution 542, the War Powers Resolution, was a clear-cut declaration of Congressional superiority in the substantive, policy-making realm of the use and disposition of the Nation's Armed Forces.

On November 7, Congress put this unprecedented legislation into law over President Nixon's veto. Cast as an effort "to fulfill the intent of the framers of the Constitution and insure that the collective judgment of both the Congress and the President will apply to the introduction of United States Armed Forces into hostilities," the War Powers Resolution actually claims for Congress a position of dominance over the entire field of troop commitment and deployment.

The operative sections of the Resolution are triggered by the introduction of American forces, without a declaration of war, (1) into hostilities or imminent hostilities, (2) into the territory, airspace or waters of a foreign nation, while equipped for combat (except for supply, replacement, repair or training), or (3) in numbers which substantially enlarge United States forces equipped for combat already located in a foreign nation. When military forces are introduced in one of these situations, the President must report on it to Congress within forty-eight hours and periodically thereafter.

Unless Congress grants specific authority for such use of the Armed Forces to continue within sixty days after the report is required, the President shall end the operation. Only if he certifies that the safety of United States troops demands their continued use in the course of removal is the President allowed an additional thirty days. But, at any time during this sixty to ninety day period, should Congress approve a concurrent resolution ordering their withdrawal, the President must obey a Congressional directive to remove the forces.

Another major provision of the Resolution prescribes that no authority for the use of troops shall be inferred from any provision of law, including defense appropriations, unless the law spells out a specific intent to constitute authority within the meaning of the Resolution. Nor is any authority for troop commitment to be inferred from any existing or future treaty unless it is implemented by other legislation specifically conferring this authority.

What is happening is that Congress is asserting dominion over a host of unsettled Constitutional issues which until now the Supreme Court has been reluctant to arbitrate, but which the course of history has resolved generally in favor of the Chief Executive. Overturning a decision by the U.S. Second Court of Appeals determining that military appropriations throughout the war in Southeast Asia did contain an authorization for the making of war, Congress itself has mandated that authority cannot be inferred from war-implementing appropriations. Disregarding the expectation of our allies, Congress unilaterally has decided at this late time to spell out a hard and fast rule preventing the Executive Arm from enforcing an American commitment under the NATO Treaty without further Congressional authorization. Oblivious to the history of the Republic in which Presidents have engaged United States forces in hostilities abroad on hundreds of occasions without a declaration of war, Congress has taken it upon itself to suddenly and dramatically shift the interpretation which 184 years have put upon the Constitution. Contrary to the brutal realities of warfare, Congress now instructs any enemy wise enough to count that it may rely upon the inaction of the legislature to achieve for it within sixty to ninety days the withdrawal of American forces which no opposing foe could compel.

Who has the war powers? Who has the power of initially committing American forces to battle in defense of America's people—or America's freedoms—or our position in the world? Once United States units are involved, who controls day-by-day tactics and overall strategic planning? With war underway, who can dictate where and when to bomb and which borders to cross? In peace, who determines where American forces can be stationed around the globe, and in what numbers? What is the meaning of the Declaration of War Clause? What authority did the Framers vest in the Commander in Chief? Who enjoys primacy in the making of foreign policy?

FROM THE FOUNDING FATHERS

"I am now convinced, beyond a doubt that unless some great and capital change suddenly takes place in that line [Commissary Department], this Army must inevitably be reduced to one or other of these three things. Starve, dissolve or disperse.

"[B]ut what makes this matter still more extraordinary in my eye is, that these very Gentn. who were well apprized of the nakedness of the troops . . . should think a Winters Campaign and the covering these States from the Invasion of an Enemy so easy a business. I can assure those Gentlemen that it is a much easier and less distressing thing to draw remonstrances in a comfortable room by a good fire side than to occupy a cold bleak hill and sleep under frost and snow without cloathes or Blankets"—Letter of George Washington to the President of Congress, Valley Forge, December 23, 1777.

In August of 1777, the Continental Congress, then possessed of the joined powers of Legislative and Executive, had discarded the military Commissary General whom Washington had selected and itself assumed complete charge of the commissariat. Shortly after this change, the system suffered a total breakdown. As we know, the great want of clothing, food and blankets grew into tragedy as cold weather came on. A prominent military historian has written: "The amount of harm, caused by the unwise military control usurped by Congress, can only be measured in terms of the appalling sufferings of the American soldiers at Valley Forge, which Washington was powerless to prevent."[1]

But this is not the only disaster for which Congress must be held accountable. Required by his commission, "punctually to observe any such orders and directions" as he should receive from Congress, Washington was harassed, second-guessed and overruled throughout the War of Independence. It was the Continental Congress who ordered Washington's men, opposed by over four times their strength, to defend Manhattan and Long Island to the last, resulting in the useless surrender of over 3,000 American troops in the summer of 1776. It was Congress who passed over Washington's first choice as commander for the Southern Department, and instead appointed a general who had recently been exposed for plotting against Washington and who in his first battle proceeded to lose the entire American Army in the South. And it is Congress whose orders blocked the reinforcements which Washington needed in the fall of 1777, making it impossible for him to save the forts along the Delaware that had prevented the British from using the river for the supply of their armies.

These and other directives of Congress very nearly lost the War of Independence.

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[1] T. Frothingham, Washington, Commander in Chief, Houghton Mifflin Co., Boston, 1930, p. 234.

And yet, it is exactly this system of government to which the War Powers Resolution would have us revert.

The Founding Fathers intended to prevent a recurrence of the interference Washington had experienced. They had witnessed at first hand the inefficiency of the legislature meddling with military operations. Of the fifty-five Framers who attended the Constitutional Convention, no less than thirty had performed military duty in the Revolution. At least six signers of the Constitution (in addition to Washington) were intimately familiar with Washington's problems. Thomas Mifflin had been quartermaster general of Washington's army, and Hamilton, McHenry and C.C. Pinckney had served on Washington's staff. Gouverneur Morris had defended the Commander in Chief in Congress and visited Valley Forge; and Robert Morris had financed Washington's campaigns. These men knew that Congress, clothed with powers of an Executive, had very nearly caused disaster during the Revolution. They planned that the new government which they formed would have at its head a Commander in Chief who possessed unbridled power over the direction and management of war.

This conclusion explains why the Founders designated the President as Commander in Chief. It explains the decision of the Constitutional Convention to reject a clause specifically giving Congress the power "to *make* war." It is consistent with the position of the Constitutional Convention when it voted down a proposal giving Congress the power to declare "peace"—to end a war once started—and with the remark made at the Convention that the conduct of war "was an Executive function."

From the historical setting in which these events occurred, it is clear the Framers meant to leave the basic powers of waging war with the President. They were influenced in this decision by the writings of Locke, Montesquieu and Blackstone, all of whom viewed the making of war as a prerogative of the Executive. These writers believed it to be among the fundamental laws of nature and government that the Executive should posses an unrestricted discretion to act when the safety of society was involved.

The danger of legislative deliberation in moments of distress is the focus of Madison and Hamilton in the Federalist 19. Here the two great architects of the Constitution agree that the Constitutional Convention had specifically rejected as a political model the Germanic Empire in which the Diet, or legislative body, was possessed of the power to make and commence war. "Military preparations must be preceded by so many tedious discussions . . . ," they wrote, "that before the Diet can settle the arrangements the enemy are in the field."

Thus, in creating a government in which the Executive power was removed from the Congress and vested in the single person of the Presidency, the Framers well understood the need for unity in the Executive Department and especially in making decisions related to emergencies. As Alexander Hamilton wrote in the Federalist 73, "Of all the cares or concerns of government, the direction of war most peculiarly demands those qualities which distinguish the exercise of power by a single hand. The direction of war implies the direction of the common strength; and the power of directing and employing the common strength form a usual and essential part in the definition of executive authority." In other words, the direction of military affairs is to be managed by a single Commander in Chief, not by 535 different Members of Congress.

An analysis of history will shed additional proof that the Founding Fathers arranged the power to make war with the Executive Branch. For example, it is an oft-overlooked historical fact that the declaration of war had already fallen into disuse in the eighteenth century. In the period from 1700 to 1787, the year of the Constitutional Convention, thirty-eight wars were held in the Western World and thirty-seven of them began without any declaration. This development was remarked upon by Alexander Hamilton in the Federalist 25.

The idea that the only way nations can go to war is by a declaration was a myth at the time of the Constitutional Convention. Why, if the Constitutional Convention intended for the nation to go to war only when Congress had declared it, or otherwise authorized it, did the Founders use a method to vest this power which was so little used in their own time?

Another question which must be answered, if the Framers are supposed to have vested Congress with primary power over the making of war, is why they chose a word "declare" which meant in the custom of the time something far different? Samuel Johnson's Dictionary of the English Language, the standard dictionary used in America at the time of the Constitutional Convention, defines "declare" as meaning no more than "to make known" or "to proclaim." On the other hand, "to make," a power removed from Congress by the Constitutional Convention, was given a definition of substance. "Make" meant "to create" or "to bring into any state or condition." Thus, when the Constitutional Convention struck out "to make" from the draft of the Constitution and substituted "declare," it withheld from Congress the power to create war or to bring this country into the state of war and left with it instead a power to declare, or formally make known, that the United States is at war and that the whole forces of the nation will be employed in carrying on the war. Accordingly, each of the American declarations of war—the War of 1812, the Mexican War of 1846, the War against Spain in 1898, and World Wars I and II—were not initiated by Congress, but were called for by Presidents after hostile acts by foreign countries which had brought us into an existing state of war between sovereign powers.

Also, the declaration may have been conceived as the method by which the United States could enter into "offensive war," as distinguished from situations where the President has discretion to use force, on his own initiative, to react against dangers to the nation or its people. In circumstances where the President does not perceive aggression or a threat to our own security, the Founding Fathers may well have intended for the Executive and Congress jointly to collaborate by means of a formal declaration.

The problem is that the advocates of Congressional supremacy have confused the declaration power with a veto power which was never given to Congress over situations when the President may exercise his independent authority for defense. This claim is based upon assumptions that have no historial foundation. Even the correct premise that the Framers wished to avoid creating a despot who might lead them into ruinous wars of conquest, in the manner of the princes of Europe, misses the mark.

Of course, the Framers intended to check the President from engaging them in wars of aggression initiated by an inflamed passion for conquest. But they equally knew as a law of society that a nation ought to attend to the preservation of its own existence and that there must be some ultimate authority who could and would be able to defend the country and its enduring interests. They knew that the only practical agency to fulfill this expectation is not the legislature composed of numerous members but the unitary office of the President. Speed of decision, unity of decision, ability to execute the decision—all are qualities of the Executive.

The Framers also recognized that a nation which has a right to preserve itself, has, as a necessary consequence, a right to avoid and prevent everything which would threaten it with danger. Thus the President, in order to protect the public safety, must necessarily and practically meet foreign threats where they arise and not only when they are at our doorstep.

As Jay wrote in the Federalist 3: "Among the many objects to which a wise and free people find it necessary to direct their attention, that of providing for their safety seems to be the first." This language hardly lends itself to an inference that shackles may be placed upon the President's ability of response to foreign threats.

Moreover, those who would dwell upon the concern of the Founders with a despot would do well to study the fear of our forefathers with an unregulated Congress. James Wilson instructed his law class in 1790 "[t]o control the power and conduct of the legislature by an overruling constitution, was an improvement in the science and practice of government reserved to the American States."[2] Madison more specifically indicates in the Federalist 38 that the Framers had intentionally withheld the direction of war from Congress because it is "particularly dangerous to give the keys of the Treasury and the command of the army into the same hands." Would the Framers have made the Executive the mere handmaiden of Congress if they thought this?

PRESIDENTIAL PRIMACY IN DEFENSE

"It was due largely to the erratic, occasionally irresponsible actions of the ancient Greek assemblies that the city-states' diplomacy was ineffective and defensive collaboration against the Eastern aggressors impossible. Despite growing recognition by Congress and the public of the purposes, methods and needs of an effective diplomacy, as long as the consistent pursuit of long-range interests and aspirations is periodically sacrificed to passing whims inspired by fleeting emotions in Washington, the danger persists of a twentieth-century repetition of the Greek débâcle."—CHARLES W. THAYER, Diplomat

The pertinent eighteenth century materials combine with living history to the end that the President, as Commander in Chief, occupies an entirely independent position, having powers of defense that are exclusively his, subject to no policy restriction or

[2] *Wilson's Works, Vol. III,* Lorenzo Press, Phila., 1804, p. 292. See also Jefferson's portrayal, quoted in the Federalist 48, of Congressional government as the equivalent of "despotic government." What influenced the Framers in the allotment of war powers was not worry over the powers of Congress or the President, but rather an overriding purpose of providing effectively for the public safety. The Presidency was universally recognized as the office most capable of attending to the national safety.

control by Congress. The President cannot conduct a war of aggression. He cannot intimidate another nation with military threats simply because we do not like its tariff rates or the way it governs its internal affairs. But the President may, in his discretion, act in defense of our country, its citizens and freedoms, whenever and wherever a danger exists, presently or imminently, which compels a response on our part.

There is a very little case law on point. In fact, no decision of the Supreme Court has ever ordered the President to halt an ongoing war or any ongoing military activity. When Supreme Court Justice William Douglas recently ordered a stop to the American bombing of Cambodia, the eight other members of the Court promptly overturned his decision.

A nearly unbroken chain of history supports the theme of Presidential responsibility for the national safety. Since Washington's Proclamation of Neutrality in 1793, despite our Treaty of Alliance with France, the authority to decide important matters of foreign relations bearing on questions of war or peace has been established in the Executive. This is true both of decisions when to terminate fighting or when to commence defensive measures.

Examples of Executive handling of matters of peace include Washington's Neutrality Proclamation; the agreement of 1817 with Great Britain limiting naval armaments on the Great Lakes; the Protocol of 1873 averting a war with Spain over the *Virginius* affair; the Protocol of 1898 suspending hostilities with Spain; the Protocol of 1901 ending the Boxer uprising in China; the surrender agreement ending the Philippine insurrection; the armistice conditions imposed upon Austria-Hungary and Germany in 1918; the cease-fire agreements ending hostilities after World War II and the Korean War; and the recent Vietnam peace agreement; each and every one a purely Executive agreement.

It may come as a surprise, but research by the author has revealed the occurrence of 199 separate foreign military hostilities commenced by Presidents in the absence of a declaration of war. Each of these operations involved actual landings on foreign soil or the evacuation of American citizens from foreign lands, or in a few instances, mobilizations into crisis areas where the risk of war was particularly grave, such as the Cuban Missile Crisis of 1962.[3] Over one hundred of these hostilities took place outside the Western Hemisphere. Many involved the employment of several thousands of troops. All involved the serious risk of war and at least eighty-two incurred actual fighting. Taken together, the incidents, large and small, amass a consistent practice by which American Presidents have responded to foreign threats with whatever force they believed was necessary and technologically available at the particular moment in history.

What is new in this regard is the failure of Presidents in recent history to bring the defensive use of military force to a prompt and successful conclusion. President Johnson acted decisively in the Dominican landings of 1965 and President Nixon's orders for the mining of ports and increased bombing in North Vietnam achieved at least the return of American prisoners of war and a chance for the South Vietnamese to develop the means of defending themselves; but President Truman in Korea and President Johnson in Vietnam entered prolonged and irresolute hostilities which they showed no capacity to terminate. Thus, the failure of the Commander in Chief to bring his military actions to a prompt and successful conclusion fostered the emergence of gratuitous advice respecting the conduct of war in the legislative chambers and new illusions of legislative competence to wage war.

In describing the President's authority to wage war, the Supreme Court has related it to his assumed duty to win: [4] "As Commander in Chief, he is authorized to direct the movements of the naval and military forces placed by law at his command, and to employ them in the manner he may deem most effectual to harass and conquer and subdue the enemy."

The number of historical precedents of executive agreements is also impressive. Executive agreements in every consequential respect equivalent to a treaty have been prevalent in every period of our history. The first known use of the international executive agreement, other than by a treaty, occurred in 1792. The most recent compilation of executive agreements indicates there are now 5,590 in effect.

There is nothing improper in this. Congress itself has authorized or ratified all but sixty-four of the current agreements, thereby lending its stamp of approval to the bypassing of the Senate's treaty power. As for the 1 percent of agreements concluded by the President on his own authority alone, the Congress may still determine whether or not it shall appropriate the moneys essential to implement these agreements. If the President lacked authority to enter into any foreign agreements at all, without a treaty, it could be disastrous to the national interest.

All we have to do is remember American preparations prior to our entry into World War II. In 1941, President Roosevelt occupied a number of military bases granted us on British soil along their possessions in the western Atlantic, and sent United States troops to Greenland, Iceland and Dutch Guiana, all before war was declared and all by executive agreements with the local authorities. A Congress which in August of 1941 had extended the draft by but a single vote could not have been counted upon to approve these base agreements at the time they were crucial.

Though the list of asserted uses of executive privilege is not so long, there are several examples of documents or testimony being refused to Congress on this ground. For example, Secretary Rogers and Dr. Kissinger declined to appear before the Senate Foreign Relations Committee on January 2, 1973, because of the ongoing negotiations with the North Vietnamese to end the Indochina War. Without the protection of executive privilege, the nation's delicate peace talks may have been disrupted.

In fact, without a minimum of independence for the Executive Department in withholding certain classes of information, our military security, our relations with other countries, pending law enforcement matters, government employee personal security files, and the confidentiality of internal decision-making processes could be impaired. For example, if Congress had enacted the information rider to the State Department Authorizations, any committee of Congress could demand all working documents accompanying an ongoing international conference. A Congressional Committee could demand information given to an Ambassador from foreign embassy sources, who may have turned over material having significant insight into a third country's position and who would be highly embarrassed if this fact became known.

All the above categories of information are areas where executive privilege is firmly rooted in historical precedence and in principle. This doctrine is implicit in the creation of our divided form of government, with the executive, legislative, and judicial responsibilities going to three great and separate branches. Congress cannot violate this division by legislating its own boundaries between the branches.

From this usage arises an impressive source of Constitutional interpretation which has been accepted by the Supreme Court before as being determinative of similar confrontations between Congress and the President. For Congress now, after almost 200 years of acquiescence in the interpretations of the President's foreign affairs and war powers, to reverse the construction which has become so settled runs contrary to the judicial doctrine of usage which the Supreme Court has on at least two occasions previously invoked as a basis for rejecting Congressional control over the Presidency.[5]

Though Congress holds great powers over military subjects, it cannot vary the exercise of the President's independent authorities. Congress controls the numerical size and the strength of the Armed Forces and the nature of equipment and arms with which the military can wage war.[6] Congress can pass or deny emergency powers bearing on foreign trade or reject treaties or area resolutions with defense implications. Congress can, as an ultimate recourse, initiate impeachment procedures, impeachment being meant as a viable safeguard against political offenses, such as an irresponsible abuse of a Constitutional discretion. Less severely, Congress can trust to a free press which is always at the ready to spread word among the public of Congressional positions running counter to the Presidency.

With time, public opinion will work its will upon the President or remove him from office. But once Congress has determined how many troops shall be enlisted, or what arms constructed, the President may, so long as he holds this high office, station those forces and send those arms to such parts of the world as he finds needed in the national defense. The Constitution authorizes the President to protect American

[3] T. J. Emerson, "War Powers Legislation," 74 West Va. Law Review 53, 1972, p. 367. Though some of these 199 incidents may have been initiated by subordinate officers on the spot, all appear to have been undertaken on the President's directions, in implementation of well-known Presidential policies, or subsequently ratified by him.

[4] *Fleming v. Page*, 50 U.S. 603, 615 (1850). See also *United States v. Sweeny*, 157 U.S. 281, 284 (1895) in which the Court stated that the President is expected to wage a "successful war" once war has been commenced.

[5] *United States v. Midwest Oil Co.*, 236 U.S. 459, 472, 473 (1915); *Myers v. United States*, 272 U.S. 52, 175 (1926).

[6] Congress has exercised these powers with alacrity in recent years. It has limited U.S. troop strength to only 2.2 million in fiscal 1974, down from 3.6 million in 1968, and appropriated a defense budget which is down 40 percent from 1968 in terms of constant dollars. Human resource spending (47 per cent) now exceeds defense spending (29 per cent) as a share of the Federal budget. The fruit of Congress's shift in priority was exposed in the 1973 Mideast crisis when the Soviets moved ninety-eight ships into the Mediterranean against only sixty-five U.S. ships.

rights and security abroad and no legislative power short of that of the people, acting on a Constitutional Amendment, can change his authority.

What was recognized by the Founding Fathers and what has been reflected throughout history is that war is a state in which nations are placed not alone by their own acts, but by the acts of other nations. As Thomas Jefferson wrote in 1815, in frank acknowledgment of his earlier error in thinking the United States could live in peace whatever the trend of events elsewhere, "experience has shown that continued peace depends not merely on our own justice and prudence, but on that of others also."

However much the Framers may have wished to live by a policy of avoiding foreign troubles, they knew from personal experience that the nation cannot be safe unless there is a single Commander in Chief with discretion to resist foreign dangers as they arise. The President does not "initiate" war in these instances; he reacts to foreign threats. Congress will persist in altering this insurance system only at grave risk to the public safety.

POTS AND KETTLES—COLOR BOTH BLACK

Mr. GOLDWATER. Mr. President, returning from the Far West as I did late Sunday evening and then coming downtown the next day, once again, I found out the great difference between living in the East and living in the West.

While out there, I hardly ever heard about former President Carter. I never heard anything about President Reagan being prompted by staff on the Carter papers and, if I had, I would have said what I said Monday morning: "Where were all these first amendment addicts, the press, when Lyndon Johnson was stealing my headquarters blind?"

As I have said on the floor, he not only knew what I was going to say before I said it, but the people representing him around the country also knew the contents of the speeches and they were answered before I even had a chance to read them. As I further related here in this body, he even had a woman spy on a campaign train of mine, and it was my unpleasant task to ask her to separate herself from my entourage.

Why is it that the Washington and New York papers seem to keep on forever and ever blasting the Government of the United States, be it Republican or Democrat; with the emphasis on the Republicans. Why, when so many things are going on around this world of such extreme importance, not just to the United States as a government entity but to the people who live here who love freedom, do we read this sort of thing? Why is it that the headlines are seemingly confined to the eastern seaboard, although I have to admit there are a few on the west coast that go the same route which occupy themselves with disclosing top secret information, berating the President of the United States, whoever he might be, downgrading our efforts around this world to preserve peace and never once thinking maybe there is a responsibility written into the Constitution, in that wonderful first amendment, which calls for the responsibility that should be practiced by everyone connected with the media, including television, radio, and newspapers.

I was flabergasted the other evening to watch a particularly well known and successful political talk show, in which the commentators, both conservative and liberal, just couldn't get over the terrible thing that George Will, one of the finest columnists in this country, had done during the campaign. As far as I can see, the crime committed by George Will was that he backed the successful candidate.

Now, are all of these columnists who suddenly have become so self righteous that it is difficult to discuss it saying that a man in the writing profession has no right to choose a candidate of his choice for President, mayor, Senator, or for anything else? Are they able to sit there and honestly say to the people of this country, never in my life as a writer, have I backed a particular man for President, or for any other office? Never in my writing life, have I discussed an issue publicly in a column? Mr. President, you and I know that that would be challenged so fast their heads would fall off.

Frankly, this whole uproar over the Carter papers is something that President Reagan summed up very well in his first remarks, something to the effect that it does not make much difference—and it does not. Those who read this in the CONGRESSIONAL RECORD have, at some time in their lives, tried to find out something that an adversary, an opponent, or a competitor was doing and, if they found it out, they would use it to their advantage. Now, all of a sudden, because a young person on the Carter staff, who might not have agreed completely with our then President, not agreed with him to the point that she felt it was alright to send President Reagan a few little pieces of paper and she did; and those papers were used, we have this big uproar. I do not exactly defend that activity, but I do not think what I say or anybody else says is going to stop it, and I do not think there is anything unconstitutional or illegal about it if you want to get down to the point.

John Lofton, whom I have known for a long time, who has a reputation for accuracy and honesty, and, I will quickly follow up, of partisanship—and I might follow up and say that he is also a conservative—has written an excellent column on this subject appearing in the Washington Times, entitled "Pots and Kettles: Color Both Black."

I hope people will read this column because it points out some rather disturbing things that should be of particular interest to those extremely righteous people who have been practicing the black-kettle-and-pot theory ever since they have been in front of a typewriter.

I ask unanimous consent that John Lofton's article be printed at this point in my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

POTS AND KETTLES: COLOR BOTH BLACK

Calling for a special prosecutor, but not yet an emergency session of the United Nations Security Council to investigate the Carter briefing book flap, Democratic National Chairman Charles Manatt says this "is not the way both parties work." No siree. Manatt says "this type of violation" is "very much the Republican dirty tricks side of the world."

But political dirty tricks-wise, Manatt's world is flat. It has only one side, the Republicans' side. Before he repeats his ridiculously partisan assertion, however, it would be wise for Manatt to have a chat with John Roche, who is a rare bird indeed—an honest liberal.

Mr. Roche, a Democrat, is a founding father and former head of the Americans for Democratic Action (1962-1965). He also is a professor of civilization and foreign affairs and academic dean at the Fletcher School of Law and Diplomacy. He has been a student of Democratic politics since 1948.

In an interview, Roche tells me that he worked as a speech writer in 1964 for the Lyndon Johnson-Hubert Humphrey ticket against Barry Goldwater and William Miller. Roche says he wrote speeches first for Humphrey, then at the request of Bill Moyers—yes, that Bill Moyers—he later wrote foreign affairs speeches for LBJ.

Here's the way Roche remembers what happened: "I don't know who the gal was, but she must have been at the top of the typing pool in the Goldwater speech-writing operation. And she would feed us what proved to be the final versions of Goldwater's major speeches. This material was given to Chester Cooper in the White House. Then my staff of four or five people would prepare speeches, and we'd feed them to our supporters—people such as Sens. Eugene McCarthy, Abraham Ribicoff and Daniel Inouye—so they could instantly react to Goldwater." Roche says this pipeline into the Goldwater camp existed for the two months prior to the '64 election.

Roche also says that he remembers that in 1960 Kenneth O'Donnell and other aides to presidential candidate John F. Kennedy had copies of "just about everything" Nixon and his crowd were putting out, including black briefing notebooks. This was "par for the course," says Roche, and he assumes "they had our stuff."

Cooper, who in 1964 was a member of President Johnson's National Security Council staff, tells me he does remember getting material from the Goldwater campaign, but it was the kind of thing being released to the papers. He says: "I do remember getting Goldwater speeches in my inbox, but I don't know where the hell they

came from." He denies this was inside information. Cooper says that if Goldwater's speeches dealt with Vietnam, which was his area of expertise, he passed this material along to McGeorge Bundy, the president's chief adviser on national security affairs.

Horace Busby also worked for President Johnson in 1964 as a special assistant. At first, he flatly denies Roche ever worked in the '64 campaign saying that Roche's memory has failed him. Busby says that what Roche alleges "could well be," but he (Busby) doesn't know what Roche is talking about. Busby says he recalls getting no Goldwater information from inside the campaign of the GOP presidential nominee.

Busby adds that he doesn't know where some of his Goldwater information came from, that it was "kind of just in the atmosphere." At the end of our conversation, Busby backs off saying that now that we've discussed the matter in some detail, he recalls that Roche did work in the '64 campaign.

At this point the plot thickens, as they say. During the 1964 presidential campaign, Howard Hunt—yes, that Howard Hunt—worked for the CIA. Hunt tells me that his boss at the agency at that time, Tracy Barnes, who is now dead, told him to have one of Hunt's people go to Goldwater's campaign headquarters and get the material that was being released to the public and send it to Cooper in the White House.

Hunt, who voted for Goldwater, says that it was a "strange and extraordinary thing" for the CIA's downtown office—which was near Goldwater's headquarters—to be involved in all this. Hunt says that at his request a couple of ladies in his office did indeed, on their lunch hour, pick up the Goldwater material asked for and send it to Cooper.

But John Roche is sticking to his guns. He stands by his story. He tells me: "Oh, no. The stuff I got was not handouts for the press. It was advance, preliminary material." Insisting that he knows the difference between material released to the press and copies of typed speech drafts. Roche says there's no doubt in his mind that what he was given was "inside stuff."

When I ask Roche if the material he says he was supplied with from inside the Goldwater campaign caused any ethical or moral agonizing among the people with whom he worked, he replies with a laugh: "No, I can't remember anybody doing this. As best as I can recall it, they thought it was a damn good idea."

So, how about it, Chairman Manatt? Should your special prosecutor put these folks on the dunking stool? Or is your hunt, sir, for Republican witches only?

Mr. GOLDWATER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

OMNIBUS DEFENSE AUTHORIZATIONS, 1984

The Senate continued with the consideration of the bill (S. 675).

AMENDMENT NO. 1459

Mr. GOLDWATER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes an amendment numbered 1459.

On page 24, after line 21, insert the following:

Of the amount authorized for Air Force Research and Development not less than $22,477,000 shall be available for research and development of Training and Simulation Technology.

Mr. GOLDWATER. Mr. President, if I might have the attention of the chairman, this reduction came about in a rather unusual way. Normally, the Tactical Warfare Subcommittee, of which I am chairman, handles this particular item as synthetic trainers. This year, for some reason unbeknownst to me, it wound up in the Strategic and Theater Nuclear Forces Subcommittee. The Strategic and Nuclear Forces Subcommittee reportedly wanted to include the entire amount, but to comply with the instruction of the Budget Committee, they reduced it $3.9 million. What my amendment would do would be to restore $3.9 million to the budget and put the whole thing in proper order because it would be back under the Tactical Warfare Subcommittee where it should have been in the first place.

I might just say that simulators have been encouraged year to year by recent Congresses because of the great savings that we have in effect in the use of simulators for all types of training, particularly flight training.

I might remind my chairman that the airline systems of the United States and the world now use simulator training instead of flight checks with the knowledge that they are certain that they produce just as good results and just as good training for pilots and crews as actual flights do.

I would ask my chairman if he will accept this amendment so that we can continue the development of trainers as we have been doing.

Mr. TOWER. Let me say to my colleague from Arizona that I have not had the opportunity to clear this with the ranking member of the committee, which I would like to do first. Let me ask the Senator, is this an authorization for a reprograming or does it actually add to the R&D account the sum of $3.9 million?

Mr. GOLDWATER. It brings the R&D account back up to what was originally recommended by the committee. As I say, it came out of the Strategic Subcommittee without the $3.9 million. That is what I am asking to be restored.

Mr. TOWER. You are not asking for a reprograming authority which would have a budget impact of adding $3.9 million to the R&D account. Is that correct?

Mr. GOLDWATER. That is correct.

Mr. TOWER. If the Senator will permit, I would like to consult with the ranking minority member.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, it is my understanding that, as framed, the amendment authorizes reprograming by the Air Force of $3.9 million, which has no budgetary impact. If that is the case, I am prepared to accept the amendment.

Mr. JACKSON. Mr. President, I understand this comes out of an account, specifically the R&D account, research and development account, of the Air Force. Therefore, it does not add to the sum total being authorized in the bill. Am I correct?

Mr. GOLDWATER. The Senator is correct.

Mr. JACKSON. I support the amendment.

Mr. PRYOR. Will the distinguished chairman and manager yield for a moment?

I would like to ask, Mr. President, unanimous consent that I be added as a cosponsor of the amendment offered by the distinguished Senator from Arizona.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. Mr. President, we are prepared to accept the amendment.

The PRESIDING OFFICER (Mr. PRESSLER). The question is on agreeing to the amendment of the Senator from Arizona.

The amendment (No. 1459) was agreed to.

Mr. GOLDWATER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, I indicated earlier today that I hoped we could finish this bill this week, per-

haps on Thursday, although I expect it will be late Thursday if we do that, but that we must finish this bill because there are so many other measures of urgent importance that are stacked up behind it that must be done in July. Mr. President, it is 3:10 in the afternoon. While it is true that the managers of the bill have managed to pass two amendments, it is also true that none of the major amendments have yet been offered. We have not yet had a single rollcall vote on this measure. If we keep going at this rate, we are not going to finish this bill by this time next week.

Mr. President, it seems to me absolutely essential that those who have amendments come forward and offer them. If they do not do that, the only alternative the leadership has is, first, to have a live quorum and try to see if we can get Members here and reason together on trying to arrange a schedule for consideration of the amendments to this bill. If still nobody is going to offer amendments, I am going to ask the managers of this bill to call for third reading. I have no illusions about getting that, but I want to say that we will do that repeatedly and as often as necessary to keep this bill moving.

There is no time agreement on the bill. No one has any protection, and it is important that we get on with the business at hand.

With that admonition, Mr. President, which I make more often than I would like but which I make in absolute certainty and reluctance, I once again suggest the absence of a quorum.

Mr. GOLDWATER. Will the Senator yield?

Mr. BAKER. I withhold the request.

Mr. GOLDWATER. Mr. President, is it beyond the realm of possibility that we may ask for the third reading and get the bill over with?

Mr. BAKER. Mr. President, I would sit here with nothing but a great smile——

Mr. GOLDWATER. And I would join the leader with a big grin.

Mr. BAKER [continuing]. If someone were to call for third reading. But I think we should give our friends and colleagues who, I hope, will remain our friends, an opportunity to come to the floor and offer amendments.

Mr. GOLDWATER. Mr. President, I might say that they had all day yesterday and did not show up, all day today and did not show up. I think it is time somebody around here got the idea we are here to work.

Mr. BAKER. I could not agree more. If anyone thinks we are reading from the responsive readings in the back of the hymn book, they are right. I think people had better get over here and offer amendments or there is going to be a lightning bolt hurled down here and we will get third reading.

Mr. GOLDWATER. I think it is not going to be too long before this Senator asks for third reading and he will get it.

Mr. WARNER. Will the Senator yield?

Mr. BAKER. Yes, I yield.

Mr. WARNER. Mr. President, I thank my distinguished friend, the majority leader, and the Senator from Arizona for yielding.

AMENDMENT NO. 1460

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The acting assistant legislative clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes an amendment numbered 1460.

Add a new section at the appropriate place in the bill the following:

"Of the funds authorized to be appropriated pursuant to section 111 of this Act, $205 million shall be available for research and development by the Department of the Army for the Military Computer Family. The Secretary of Defense shall make offsetting reductions in lower priority computer application projects authorized in this Act."

Mr. WARNER. Mr. President, my amendment will reallocate funds from several accounts in order to insure that a highly important program receives the full level of effort it deserves.

It has no dollar impact on the overall bill before us at the moment.

The program in question is the Army's tactical embedded computer development project known as the military computer family. This innovative research and development initiative is intended to provide a new generation of advanced computers for the Army's future tactical weapons systems with a maximum amount of commonality and a minimum amount of unique software support requirements.

The Senate Armed Services Committee has, in the past, strongly supported the Army's embedded computer modernization program. I believe that such support continues to be in order today. In the face of acute pressure to make budgetary reductions, however, this program was reduced.

Mr. President, my amendment proposes to make an offsetting, undistributed reduction in Department of Defense computer application projects—as opposed to technology developments—whereby lower priority computer development and/or acquisition programs could be adjusted at the discretion of the Secretary of Defense in order that this extremely high priority endeavor may proceed as planned.

I have been advised that at least one tactical computer program is being developed to fulfill on an interim basis the requirement which will ultimately be satisfied by the military computer family system. I have further been informed that—if the military computer family research and development work continues to proceed as effectively as it has to date, it may be possible for certain tactical systems to make use of the MCF equipment from the start—thereby obviating the need for an interim and duplicative development program. I encourage the Department of Defense to give serious consideration to identifying such development activities as possible sources of funding for the undistributed reduction applied by this amendment.

I hope that the distinguished floor managers for the majority and the minority can accept my amendment.

I yield to the distinguished chairman.

Mr. TOWER. Mr. President, it is my understanding that this involves the allocation of funds that do not have an adverse budgetary impact.

Mr. WARNER. The Senator is correct.

Mr. TOWER. The Senator from Texas has no objection to this matter in which the distinguished Senator from Virginia is well versed. I am prepared to accept the amendment.

Mr. GOLDWATER. If the Senator will yield, I might point out to my chairman that, inadvertently, the Tactical Warfare Subcommittee handled this this year where, normally, it is handled by the Strategic Subcommittee. On the other side of the coin, they handled the synthetic trainers and I am usually supposed to handle those. So we have already made the adjustment in the trainers. I am very glad to help my friend from Virginia in getting this straightened out.

Mr. WARNER. I appreciate the support of the Senator from Arizona. I judge that his comments are supportive of this amendment.

If the distinguished Senator from Washington concurs, I imagine we can dispense with it on a voice vote.

Mr. JACKSON. Mr. President, as I understand it, this amendment will not have any adverse budgetary impact. Am I not correct?

Mr. WARNER. That is correct.

Mr. JACKSON. Second, it merely earmarks the funds for the computer matter that the Senator outlined in his statement. So the overall impact is not to add to the budget contained in the bill pending before the Senate.

Mr. WARNER. The Senator is correct.

Mr. JACKSON. I support the amendment and join with the chairman of the committee in urging its acceptance.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 1460) was agreed to.

Mr. JACKSON. I move to reconsider the vote.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

(Later the following occurred:)

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER (Mr. SPECTER). The Senator from Texas.

Mr. TOWER. In the amendment offered by the distinguished Senator from Virginia (Mr. WARNER), adopted by a voice vote, there was a clerical error in the amendment as submitted to the desk. As submitted, the amendment read $205 million. I ask unanimous consent that that figure be changed to $20.5 million.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. TOWER. That represents a savings of almost $180 million.

(Conclusion of subsequent proceedings.)

CALL OF THE ROLL

Mr. TOWER. Mr. President, I am going to suggest the absence of a quorum with the consent of the majority leader. May I say it is our intention to let it go live, because I think we need to alert Senators to the fact that we are doing business over here this afternoon and try to get a little more progress made on the amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll, and the following Senators answered to their names.

[Quorum No. 9 Leg.]

Baker	Pressler	Warner
Burdick	Thurmond	
Jackson	Tower	

The PRESIDING OFFICER. A quorum is not present. The clerk will call the names of absent Senators.

Mr. BAKER. Mr. President, I move that the Sergeant at Arms be instructed to request the attendance of absent Senators, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The question is on agreeing to the motion of the Senator from Tennessee. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Alaska (Mr. MURKOWSKI) and the Senator from Connecticut (Mr. WEICKER) are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), and the Senator from Rhode Island (Mr. PELL) are necessarily absent.

I also announce that the Senator from West Virginia (Mr. RANDOLPH) is absent because of illness.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 86, nays 5, as follows:

[Rollcall Vote No. 181 Leg.]

YEAS—86

Abdnor	Exon	Metzenbaum
Andrews	Ford	Mitchell
Armstrong	Glenn	Moynihan
Baker	Gorton	Nickles
Baucus	Grassley	Nunn
Bentsen	Hatch	Packwood
Biden	Hawkins	Percy
Bingaman	Hecht	Pressler
Boren	Heflin	Pryor
Boschwitz	Heinz	Riegle
Bradley	Helms	Roth
Bumpers	Huddleston	Rudman
Burdick	Humphrey	Sarbanes
Byrd	Inouye	Sasser
Chafee	Jackson	Simpson
Chiles	Jepsen	Specter
Cochran	Johnston	Stafford
Cohen	Kassebaum	Stennis
Cranston	Kasten	Stevens
D'Amato	Lautenberg	Symms
Danforth	Laxalt	Thurmond
DeConcini	Leahy	Tower
Denton	Levin	Trible
Dixon	Lugar	Tsongas
Dodd	Mathias	Wallop
Domenici	Matsunaga	Warner
Durenberger	Mattingly	Wilson
Eagleton	McClure	Zorinsky
East	Melcher	

NAYS—5

Dole	Goldwater	Quayle
Garn	Proxmire	

NOT VOTING—9

Hart	Kennedy	Pell
Hatfield	Long	Randolph
Hollings	Murkowski	Weicker

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

Mr. BAKER. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. Senators will take their seats. Conversations will please be removed to the cloakrooms. Senators will please take their seats.

Mr. BAKER. I thank the Chair.

With the conclusion of that quorum call, Mr. President, since Monday at noon we have been in a quorum situation for 5 hours. That is not making haste very rapidly, and we have to finish this bill, and we have to do it this week if we are to do what must be done during this month and before the August break.

When we convened on Monday, Mr. President, I said words that may have sounded harsh but they sound more prophetic now. I indicated that to the extent that the Senate will permit me to do so, it is my intention to finish this bill this week. It may take late evenings, it may take all week, and it may take the weekend. But, Mr. President, we need to finish this bill this week and we are off to a mighty poor start.

I have been on the floor trying to urge Senators to offer their amendments, and no amendments have been forthcoming. I think we have done three amendments. In addition to the highly controversial amendments, the B-1 bomber, for instance, or the MX missile, there are dozens of other amendments that have been discussed. Maybe those amendments are not going to be offered, and that would delight me, and we could get to third reading pretty fast. But if they are going to be offered, Mr. President, they ought to be offered now because at 4 p.m. in the afternoon on the second day of consideration of this measure in the week we are going to finish this bill this is making progress very, very slowly.

I am going to inquire of those who are still remaining on the floor—and unfortunately most of my colleagues fled as soon as they answered the rollcall—I am going to ask Senators who have amendments on this side of the aisle to say so now, if they will indicate what amendments they have and when they will offer them. I am going to start making a list, and if the distinguished managers of the bill will consider it, we can go forward with theirs.

The Senator from Wyoming.

Mr. WALLOP. Mr. President, I have an amendment dealing with laser space weapons which I will continue to have conversations with the chairman on and can perhaps work something out which would require no votes.

Mr. BAKER. Very well.

The Senator from Texas, the manager of the bill, the chairman of the committee, indicates he has two amendments to offer, so that is three.

Mr. COHEN. I have one, along with Senator ARMSTRONG, on the GI bill, which we intend to offer tomorrow afternoon.

Mr. BAKER. Could I inquire, why tomorrow?

Mr. COHEN. We would anticipate having more Members tomorrow afternoon than are curently here.

Mr. BAKER. Could I inquire of the Chair how many Senators answered the rollcall?

The PRESIDING OFFICER. Ninety-one.

Mr. BAKER. Mr. President, I urge the Senator to consider that we ought to offer any amendment we can today, because tomorrow is Wednesday. If we are going to finish this bill Thursday or Friday, we really, really have to get those amendments up. I hope the Senator will consider the possibility of doing that today or tonight.

Mr. COHEN. I will consider it.

Mr. BAKER. All right. Anyone else?

Mr. President, we have maybe 15 Senators on this side and so far I have only had about three amendments.

I inquire of the minority leader if he could give me any enlightment on how

many amendments may be offered on his side.

Mr. BYRD. Mr. President, I suggest that the majority leader make the inquiry and we will also, as I think we have already done some exploration via the cloakroom line.

Mr. BAKER. I thank the minority leader. With his consent, could I inquire of the Democratic side of the aisle how many amendments they have? First, the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the Senator from Georgia and I will have an amendment with respect to multiyear contracting on the B-1 bomber and also the restoration of those same funds to other programs. I hope we can be ready to go—well, it would certainly be after the secret briefing tomorrow on the Stealth at 9 a.m. in S. 407.

If I may tell my colleagues, we are having a secret briefing in S. 407 on the Stealth tomorrow morning at 9 a.m. I urge and implore everyone to be there, because I think it is very vital to these issues.

Mr. BAKER. Mr. President, could I inquire of the distinguished Senator from Louisiana, would it be correct to say this is the principal B-1 amendment that will be offered?

Mr. JOHNSTON. I think there is also one from other Senators.

Mr. BAKER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I just want to reiterate to my colleagues what the Senator from Louisiana has just said. I do have an amendment on the B-1 and preferably would offer it before the Johnston-Nunn amendment.

But the thing I want to emphasize is I think it is really important that every Senator who wants to brief himself on the B-1 and the follow-on bomber ought to be in S. 407 in the morning at 9 a.m. That is an extremely vital and very important briefing. No one in this body is capable, except possibly a few members of the Armed Services Committee who have been privy to this, nobody can really vote sensibly on these two amendments until after that briefing. I urge all of my colleagues to attend that.

Mr. TOWER. Will the Senator yield?

Mr. BUMPERS. I am happy to yield.

Mr. TOWER. I was given the task to establish the briefing tomorrow. My understanding is that the briefing was only to be confined to the advanced technology bomber, not to the B-1.

Mr. JOHNSTON. That is correct.

Mr. TOWER. If you want to broaden it to include the B-1, we can. But it will be on the advanced technology bomber.

Mr. BAKER. As I understand it, there will be two B-1 amendments.

Mr. TOWER. There may be more.

Mr. BAKER. I understand the authors of those amendments are willing to do it sometime tomorrow after that briefing, is that correct?

Mr. JOHNSTON. Senator NUNN said right before he left that he did not think he would be ready to go on ours until Thursday.

Mr. TOWER. I hope we could get to third reading on Thursday, maybe even tomorrow night.

Mr. JOHNSTON. Senator NUNN will have to speak for himself.

Mr. BAKER. Let me say that the B-1 and the MX appear to be the major issues involved here, and maybe one or two others like binary weapons and the like. But I hope that we could get at least one of those major, controversial amendments out of the way today and another one tomorrow and, if there is a third one, then on Thursday, so, as the chairman says, we can finish this bill on Thursday evening.

But I implore my friends from Louisiana and Arkansas to consult with the minority leader to see if we can schedule a time for the B-1 amendments on tomorrow.

Does the Senator from Alabama have an amendment?

Mr. HEFLIN. Mr. President, I have an amendment—I do not believe it will be controversial; I believe it will be accepted—dealing with 11 acres of excess land.

Mr. BAKER. Are there other Senators? The Senator from Ohio.

Mr. METZENBAUM. Mr. President, depending upon some discussions that have taken place between the respective staffs of the managers of the bill and my own, I will have some amendments if those discussions do not develop into a consensus in connection with the matter of leasing. At this moment, I cannot say how many of those amendments there will be.

In addition to that, it is my understanding that some Members of the Senator's side are planning to offer an amendment in connection with the so-called $2.1 billion of found money. In the event they do not offer that amendment, then I will offer such an amendment.

Mr. BAKER. Mr. President, I believe the Senator may be speaking of a motion to recommit. I understand that the distinguished Senator from Washington (Mr. GORTON) may offer that amendment.

Mr. METZENBAUM. That is the one.

Mr. BAKER. I include that in the list. He is not on the floor at this moment.

Are there other Senators? The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, if the majority leader will yield, in the absence of Senator ARMSTRONG, I might say that, in cosponsorship with him, Senator HOLLINGS, and Senator CRANSTON, we would be offering the GI bill amendment tomorrow.

Mr. BAKER. Tomorrow?

Mr. MATSUNAGA. Tomorrow.

Mr. BAKER. Mr. President, that is the same amendment mentioned by the Senator from Maine, Senator COHEN, or at least the same subject matter. I urge the Senator to consider doing that today rather than tomorrow.

Mr. MATSUNAGA. For some reason, the cosponsors will not be available today.

Mr. BAKER. Mr. President, with all deference and respect, we really have to move this bill. As of this moment, I do not know of a single one of these amendments that is available now. I simply am not going to ask the Senate to leave at 4 p.m. in the afternoon.

So, with no disrespect to my friend from Hawaii or my friend from Maine, who has now fled the Chamber, I hope that we can find somebody who will offer an amendment.

Could I ask for a volunteer who will offer an amendment?

Mr. TOWER. Mr. President, I will offer a couple of amendments. If the distinguished majority leader will yield, may I suggest that if you could have it ready for tomorrow, then you could have it ready for, say, 10 o'clock tonight. So why do we not start sequencing these amendments for late this evening? Because if Senators are prepared to offer them tomorrow, they would be just about as prepared to offer them late this evening. Why do we not start sequencing for 9, 10, or 11 p.m., whatever? That is just a suggestion.

Mr. BAKER. Mr. President, let me say I am going to yield the floor in a moment. I have one other remark to make that nobody is going to like and then I have a request to make of Senators.

First, the request, I urge Senators on both sides of the aisle to let their respective leadership know what amendments they have in detail and when they can schedule those at the earliest moment, meaning today, tomorrow, and Thursday.

Mr. TOWER. Will the Senator amend that to include the distinguished Senator from Washington and the Senator from Texas, to let us know also?

Mr. BAKER. I am going to give the Senator the list. I am not going to have anything to do with them.

Let me then urge that the two managers of the bill attempt to work out a sequence and a schedule. I will consult with the minority leader and we will see then if we can work out an arrangement on when we consider these amendments and when we can sequence the highly controversial amendments, the B-1, the MX, and

binary weapons, if that is indeed offered.

Mr. TOWER. Will the Senator yield?

Mr. BAKER. Yes.

Mr. TOWER. Mr. President, I announced earlier that I would like at some point to attempt, after consultation, to sequence these by subject matter so that everyone interested, for example, in the B-1 can appear on the floor during a certain timeframe, the MX at a certain timeframe, and tactical aircraft, what have you. I hope we could put some order in the procedure so that Senators will be alerted when these amendments will come up.

Mr. BAKER. Mr. President, I think that is a good idea and I would urge Senators to try to help the managers arrange it.

Now, Mr. President, I have had a conversation with both managers and I have read just now from my statement in the RECORD of yesterday. I regret to make the statement I am about to make.

Mr. President, I reiterate that it is essential that we finish this bill this week. I will ask the Senate to remain as long as the managers tell me that it is profitable and useful for the Senate to remain in session tonight, tomorrow night, Thursday night, Friday night and Saturday night.

Mr. President, I am not bluffing. We have to finish this bill this week, in my judgment. We will stay in this weekend to do it, if necessary, and if it is decided to be appropriate.

Mr. TOWER. Will the majority leader yield?

Mr. BAKER. Yes.

Mr. TOWER. That is music to my ears.

Mr. BAKER. Mr. President, the Senator may be the only the Senator in the Chamber who is happy to hear that.

Mr. President, I thank the managers on both sides of the aisle. But, once again, we have to finish this bill this weekend and I urge Members to get on with the business at hand.

Mr. QUAYLE. Mr. President, I should like to briefly address the subject of competition in the procurement of spare parts by the military services. Today's Washington Post and New York Times both include articles about the report by the Department of Defense Inspector General condemning existing spare parts procurement practices. I ask unanimous consent that these two articles be printed at this point in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 12, 1983]

AUDITORS REPORT PENTAGON SPENDING TOO MUCH ON PARTS

(By Fred Hiatt)

The Defense Department is paying millions of dollars too much for aircraft engine spare parts and is giving far too little attention to cost increases, according to a draft report by auditors for the Pentagon's inspector general.

Spare-parts spending in the Navy and Air Force agencies examined by Defense auditors reached $1.2 billion in fiscal 1982, and prices for nearly 30 percent of the 15,000 parts the auditors checked went up 500 percent or more between fiscal years 1980 and 1982.

In 1982, the Air Force paid $17.59 for a bolt that cost 67 cents in 1980. The price of one section of a Rolls-Royce ring assembly increased from $3.70 to $54.75 in the same period.

In many cases, the report—drafted for Inspector General Joseph H. Sherick—found that "little effort was being made to limit exorbitant cost growth," while the Pentagon "provided contractors with a 'blank check' and no incentive to cut costs."

Spare-parts horror stories have become standard fare at the Pentagon during the past year, but the draft report offers the most authoritative evidence so far of the widespread scope of the problem.

The report also points to several institutional factors that continue to inflate prices despite Defense Secretary Caspar W. Weinberger's exhortations to spur competition and limit costs. Among the factors cited were undue reliance by Air Force officials on their prime contractors' advice, and top officers' emphasis on speedy delivery rather than cost.

Air Force official are examining the 41-page report. They declined comment until release of the final document. The draft was obtained and released to reporters by the nonprofit Project on Military Procurement.

The report said the Pentagon virtually guarantees high prices by purchasing most spare parts with "sole-source," non-competitive contracts. Many contracts the Air Force considers competitive pit a contractor against one of its affiliated licensees, diminishing the incentives for true competition.

In addition, 27 percent of all parts sampled were bought under contracts that allow the supplier to raise prices every year.

"The use of the latter type of contract resulted in contracting officers paying little attention to the unit prices paid for spare parts," the report said. "The contractor's risk in minimal because increased costs are simply passed on to the government."

Even in cases where competition could exist, the department did little to encourage it, according to the report. "There was a reluctance by the [government] engineers to consider alternate sources without the approval of the prime contractor," it said.

The report focuses on Pratt & Whitney, a unit of the United Technologies Corp. conglomerate that produces most U.S. jet engines and parts. It says the company often purchased parts from independent vendors and then sold them to the Air Force without justifying its substantial markups.

The report's conclusions could be embarrassing to Pratt & Whitney, which already has been charged in internal Air Force audits with unjustified pricing. Pratt & Whitney is now engaged in a major lobbying and performance competition with General Electric Co. for the right to produce the next generation of Air Force and Navy fighter jet engines.

A spokesman for Pratt & Whitney said the firm has submitted a plan to the Air Force to "correct deficiencies in its relationship with suppliers." The company had denied improper pricing in the past, but said it has not had an opportunity to study the draft report.

The report notes that General Electric, Rolls-Royce Ltd. and other suppliers also raised the prices on spare parts far beyond the inflation rate.

[From the New York Times, July 12, 1983]

PENTAGON AUDIT FINDS SHARP PRICE INCREASES FOR PARTS

(By Charles Mohr)

WASHINGTON, July 11.—A simple three-inch steel bolt that had a list price of 67 cents cost the Defense Department $17.59 upon delivery. Military procurement officers paid $57.52 for a small bushing originally priced at $2.83.

These are among the examples in a Pentagon report on large price increases for spare parts for aircraft engines. The services paid more than $1.2 billion for such spares last year.

The report said that enormous increases in spare part prices were caused, in part, by the failure of Government purchasing officers to buy directly from the manufacturer, to encourage competitive bidding and to find new commercial sources for such parts.

It also said that the purchasing officers paid little attention to the cost of parts since their job performance was evaluated chiefly on speedy completion of paper work, with little regard to economies achieved. Another common practice cited as driving up prices was a type of contract that lets a supplier set the price when parts are delivered, not when they are ordered.

The report was a draft, dated June 10, of an audit report by the office of the Inspector General of the Department of Defense.

The Inspector General's report was made public today by the Project on Military Procurement, a nonprofit, private organization that gathers information on weapons costs and on faulty performance of equipment. The organization has informers in the Defense Department.

The report involved a study of the price history from 1980 through 1982 of almost 15,000 different aircraft engine spare parts. About 65 percent, or more than 9,700 items, increased in price by more than 50 percent in the three-year period, and more than 4,000 items increased in price by more than 500 percent, the report said. Some increases of more than 1,000 percent were noted.

"Increases in material costs or other inflation factors cannot explain or justify prices being paid by the Government for aircraft engine parts," the report said.

SEVERAL EXPLANATIONS

The authors of the report gave a variety of explanations of the sharp price increases. One is that the purchasing agencies, such as Air Force logistic centers and the Navy's Aviation Supply Office, tend to buy spare parts from the "prime contractor" corporation that furnished the engine, even though most of the parts are actually manufactured by subcontractors or vendors.

It reported that Air Force officials at one buying facility said 80 percent of the parts sold by Pratt & Whitney Aircraft Corporation, the largest maker of aircraft engines, were made by other manufacturers.

Another problem, the report said, was the use of "price redeterminable" ordering agreements. In such contracts, the contractor issues an annual price list from which the purchasing officer makes an order. The price can be raised upon delivery, however.

The report complained that such contracts "allowed the contractor to raise prices without contracting officers either monitoring unit price increases or questioning significant cost growth." This gives contractors a "blank check," the report asserted.

The Oklahoma City Air Force logistics center stopped using redeterminable price agreements in 1981, but a similiar facility in San Antonio and the Navy continue to use them.

The authors of the report said they believed that "Pratt & Whitney's accounting system does not result in 'fair and reasonable' prices."

The report said Government purchasing officers tended to accept markups without much protest. One reason is that evaluation of the officers' performance emphasizes the volume of purchase requests and the time needed to process them. "Cost is not a major consideration," the report said.

The report recommended a new procedure in which a contracting officer would have to certify that a price is fair and reasonable when it has increased 25 percent or more in one year.

NONCOMPETITIVE BIDDING CITED

The report was also noted the large number of "sole source" or noncompetitive purchasing agreements. It said that companies attempting to break into the parts business were "either rejected outright" or subjected to prolonged "qualification" procedures.

One case history cited involved an order for 15,658 "divergent nozzle assemblies" for F-100 jet engines. Pratt & Whitney offered a unit price of $2,469. The B.H. Aircraft Company of Farmingdale, L.I., submitted an unsolicited proposal to make the assemblies for $1,395 each. B.H. Aircraft was not approved as a source until after protests were made to seveal non-Pentagon organizations and the General Accounting Office. Eventually, B.H. was given a reduced order of about 7,000 parts, which the report said "saved nearly $9 million on this one purchase."

An Air Force spokesman said it was Air Force policy to withhold comment until a written response had been given to the Inspector General's office.

Mr. QUALE. Mr. President, I should also like to call to the attention of the Senate the language in the report accompanying S. 675 at pages 103 and 104 under the heading "Spare Parts Procurement Policy." The language expresses the strong committee concern over this very same issue—the lack of competition in the procurement of spare parts.

I certainly hope that the Pentagon reads this report language in the very serious vein in which it was intended. I can assure my colleagues in the Senate as well as the leaders in the Pentagon that there had better be a very drastic turnaround in the way in which spare parts are bought. Competition is so obviously needed in this area that if a drstic change is not seen by the time of next year's authorization bill, I intend to propose some drastic changes in the law which will force the Pentagon to move away from solesource contracting.

I believe the Armed Services Committee serously intends to follow up on the report language which I proposed and which was adopted. We do not consider 90-percent solesource contracting to be responsible management in the best interest of the American taxpayer.

AMENDMENT NO. 1461

(Purpose: To establish a requirement to report before obligating funds to carry out full-scale production of any weapon system not successfully completing operational testing)

Mr. TOWER. Mr. President, on behalf of the distinguished Senator from Kansas (Mr. DOLE), I send an amendment to the desk and ask for it immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas (Mr. TOWER), on behalf of Mr. DOLE, proposes an amendment numbered 1461.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

LIMITATION ON PRODUCTION OF CERTAIN WEAPON SYSTEMS

SEC. . (a) None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended to commence or carry out the full-scale production of any weapon system which has not successfully completed operational testing, until the date on which the Secretary of Defense has transmitted to the Congress a notice as provided in subsection (b).

(b) Each notice transmitted under subsection (a) shall be in writing and shall include a statement that the Secretary intends to commence and carry out the full-scale production of such weapon system, a description of the problems with the weapon system revealed by the operational testing, and a discussion of the risks and the benefits associated with commencing and carrying out full-scale production of the weapon system before operational testing of the weapon system is successfully completed.

Mr. TOWER. Mr. President, the amendment offered by the Senator from Kansas simply requires a report from the Secretary of Defense in every case where he intends to obligate funds to commence or carry out full-scale production of a weapon system which has not yet successfully completed operational testing. The notification would include a description of the problems encountered in operational testing, and a discussion of the risks and benefits associated with commencing full-scale production before successful completion of operational testing.

● Mr. DOLE. Mr. President, during the last fiscal year defense procurement appropriations totaled $80.2 billion. The DOD authorization bill reminds us that tomorrow's weapons will be more complicated, and significantly more expensive. As our weapons systems become more complex, the Senator from Kansas wants to insure that we do not fall into the habit of routinely authorizing and appropriating large sums of money for concurrent development and production of new weapon systems without adequately reviewing the results of operational testing.

The B-1 bomber, the air-launched cruise missile, the Peacekeeper (MX) missile, and the Pershing II missile are all examples of modern, highly complicated, and very expensive weapon systems. In each program a large degree of concurrent development and production is or has taken place. All of the systems I have mentioned are strategic system, but the same high degree of concurrency surrounds some general purpose weapons as well. Concurrent development and production is unavoidable to some extent. But it is clear that the higher the degree of concurrency, the greater the risks of substantial cost overruns. In 1972, then Deputy Secretary of Defense David Packard observed:

There has been a real waste of both time and money in almost every program in which production was started before development and testing was complete.

All of us are concerned with the increasing costs of weapon systems, as are our constituents. Some of the cost growth is due to inflation. Some is due to the increased complexities of modern day weapons. Some of the cost increases, however, can be attributed to poor initial design which must later be corrected.

The amendment which I have sent to the desk seeks to highlight those cases in which full-scale production funds are planned to be obligated before the system has successfully passed its operational tests. The amendment would require a report from the Secretary of Defense in every case where he intends to obligate funds to commence or carry out full-scale production of a weapon system which has not yet successfully completed operational testing. The notification would include a description of the problems encountered in operational testing, and a discussion of the risks and benefits associated with commencing full-scale production before successful completion of operational testing.

Paul Thayer, Deputy Secretary of Defense, has recently remarked that the "fly before you buy" concept was something of a myth. Since in almost all cases of weapon procurement some degree of concurrent development and production takes place. He has a good point. That is why my amendment does not prohibit concurrent development and production; it merely shines the spotlight on this practice. The

need for some weapons systems is so urgent in some cases that no Member of this body would be troubled by simultaneous development and production. This amendment preserves the flexibility that the Secretary of Defense needs in such cases.

The Senator from Kansas feels that isolating instances of concurrent development and production will enhance Congress ability to closely monitor the weapons procurement process. The President's private sector survey on cost control, headed by J. Peter Grace, recently concluded that significant cost savings could be achieved in the Department of Defense, most notably from improved management of the weapons acquisition process. This amendment will help to make such savings possible by aiming congressional focus on major weapon system production decisions to a greater degree than now exists.●

Mr. TOWER. Mr. President, I might note that the distinguished Senator from Kansas is detained in a markup session in the Finance Committee and could not be here at this time.

Mr. President, I believe this is an acceptable amendment. It has been cleared on this side of the aisle. I am prepared to accept it.

Mr. EXON. Mr. President, the amendment offered by the Senator from Kansas has been cleared on this side and we are prepared to accept it.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 1461) was agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, we are ready to take up the next amendment. I do not think we will be overwhelmed by volunteers, so I guess we better get back on the telephone.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1462

(Purpose: To permit the use of funds for Project 82-D-109)

Mr. TOWER. Mr. President, I send to the desk an amendment and ask the clerk to report.

The PRESIDING OFFICER. The clerk will report.

The acting assistant legislative clerk read as follows:

The Senator from Texas (Mr. TOWER) proposes an amendment numbered 1462:

On page 234, between lines 7 and 8, insert the following new section:

AUTHORITY TO USE FUNDS FOR PROJECT 82-D-109

SEC. 303. Notwithstanding any other provision of law, the Secretary of Energy may obligate and expend funds to carry out Project 82-D-109 if the President approves the use of funds for such project and certifies to the Congress in writing that such project is essential to the national security.

Mr. TOWER. Mr. President, I am going to suggest the absence of a quorum. I submit this amendment now for the purpose of serving notice that it will be the next matter to be considered.

This has to do with the W-82 round, 155-millimeter cannon. It is a theater tactical nuclear weapon. As I think most Members are aware, our tactical nuclear stockpile is growing old and ineffective. We have been steadily reducing that stockpile unilaterally and getting nothing for it.

What we propose to do is change the fencing language that was in the appropriation bill on the production of this system because that fencing language made production contingent on the decisionmaking process of foreign governments and I submit we cannot submit our national security decisions to the decisionmaking process of foreign governments. It is my intention to suggest the absence of a quorum and then in about 5 minutes proceed to the consideration of this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. CHAFEE). Is there objection?

Mr. STENNIS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

The acting assistant legislative clerk resumed the call of the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. TOWER. Mr. President, Congress has recently enacted and sent to the President the conference report on the fiscal year 1984 Energy and Water Resources Appropriations bill. In so doing, two extremely unfortunate actions were taken.

First, the appropriations measure preceded the companion authorization bill relating to the Department of Energy national defense programs. For that reason, I voted against that conference report. That authorizing legislation is, of course, contained in the Omnibus Defense Authorization Act which we are now debating.

Second, without specific deliberation by either the House of Representatives or the Senate, the conferees on that measure adopted a provision which, in my judgment, holds the possiblity for doing great harm to the national security of the United States and that of our allies. I refer to the provision of the Energy Appropriations Act which stipulates that before construction of facilities related to the production of 155 millimeter nuclear projectiles may begin, at least one NATO ally must certify publicly its willingness to deploy such shells on its territory.

Mr. President, this provision is a matter of great concern for both procedural and practical grounds. Procedurally, I believe it is most ill-advised to have legislation of this kind emerge in a conference report, especially a conference report on an appropriations bill, thereby denying either Chamber the opportunity for full debate and votes on the specific issue.

What is more, this provision is troubling because, from a practical standpoint, a program which is deemed by the President of the United States, the Secretary fo Defense, the Joint Chief of Staff, the Supreme Allied Commander of Europe, among others, to be an essential component of United States ability to deter tactical nuclear aggression in the future—irrespective of where such aggression might occur—is to be tied to the public policy decisionmaking process of our European allies. Mr. President, never before in my experience in government has the United States proposed to abrogate to some other nation such an important national security issue as this.

Let us think about what that language does. That means that if we wanted to produce this system to use elsewhere in the world, any place else that American troops may be deployed, we would not be able to do so until it was approved by the public decisionmaking process of some European country, even though that country might not be affected.

Mr. President, I believe this provision of the energy and water resources appropriations bill to be of sufficient import to require an opportunity for the Senate to consider it and be afforded an opportunity to vote on the substance of the issue. Therefore, I am offering an amendment to the general provisions section of the Omnibus Defense Authorization Act which would apply to the third title of that act with respect to funding provided therein for production-related construction of the 155-millimeter nuclear

shell. Unlike the language of the appropriations measure, my amendment would make the expenditure of such funds contingent upon a determination by and certification of the President of the United States that the expenditure of such funds for these purposes is essential to the U.S. national interest. I believe that the President is far better able to take into account our global national security requirements. Similarly, I believe he is better able to judge than might be our European allies the deterrent value of having effective, credible 155-millimeter nuclear rounds in our inventory—irrespective of where they might be deployed.

I would remind my colleagues that we are not talking about funds to produce a new warhead. We are only talking about construction funds needed to build the facilities that would be used to produce the warhead. The decision to produce the warhead will not be made for several years.

Likewise, my colleagues should be aware that this is a replacement warhead—not a new nuclear system. We now have the W-48 round, a 155-millimeter artillery round, deployed in NATO. But the W-48 is an old round, its military effectiveness is suspect and it does not have the safety features built into modern rounds. In summary, the currently deployed W-48 round has very little deterrent effect.

Let me repeat what I said earlier, that we have been reducing our inventory of tactical nuclear weapons unilaterally without exacting anything from the Soviet Union or the Warsaw Pact in return.

Finally, I believe it is imperative that the United States take sole responsibility for decisions affecting the nature and composition of our defense posture. To do otherwise, is to establish a dangerous precedent for the future.

Mr. President, if my distinguished colleague does not want to respond, I will suggest the absence of a quorum.

Mr. STENNIS. If my distinguished colleague will yield to me for a minute, I do have a word of explanation.

Mr. President, I am here for the ranking minority member of the Senate Armed Services Committee, the Senator from Washington (Mr. JACKSON), who has been detained from appearing on the floor for a short time.

It happens that in the Appropriations Subcommittee where this amendment was first offered, I opposed the amendment, Mr. President, I oppose it now, with all deference to anyone who feels the other way. I do not think it is sound law. I would therefore not approve the amendment offered by the Senator from Texas.

I shall have someone here, I think—I have already invited them to come—who is opposed to the amendment as now offered. I think the debate can proceed, if that is the will of the author of the amendment. If he wants to suggest the absence of a quorum now, I shall do that.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. GOLDWATER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? I hear none. It is so ordered.

The Senator from Arizona.

Mr. GOLDWATER. Mr. President, is the bill now open to further amendment?

Mr. TOWER. There is an amendment pending, which I have offered.

Mr. GOLDWATER. I did not know that, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The acting assistant legislative clerk proceeded to call the roll.

Mr. TOWER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, when the energy and water appropriations bill came up in the Senate Committee on Appropriations, the committee and, later, the Senate, on the floor, took out all money for the 155-millimeter howitzer enhanced radiation shell for the production facilities; the House had that money in so that when we went to conference, the Senate had money out, the House had money in for the production of the 155-millimeter enhanced radiation shell. We struck a compromise in the conference committee which provided that the spending of the production moneys could not proceed until at least one NATO nation agreed to the deployment of the 155-millimeter shell. The reasoning was, of course, that while the Senate had opposed the 155-millimeter shell as being, first, redundant of the 8H shell and, second, probably of marginal use on the battlefield, the House felt differently.

We struck the compromise that at least we should not proceed with the facilities until we could deploy that system in at least one country. As it is right now, there is not a single NATO country which will accept the deployment of the 155-mm shell with the nuclear warhead.

Mr. President, this was a carefully worked out compromise, approved by the Senate after discussion on the floor of the Senate, and that could have been brought up in disagreement on the floor, but it was approved just the week before we went in session.

The distinguished chairman of the Committee on Appropriations (Mr. HATFIELD), I understand is not here and will not be here until tomorrow morning. It seems to me that the chairman of the Committee on Appropriations ought to be here. In the meantime, Mr. President, it would seem to me that this amendment—and I have not asked for advice on this, but it would seem to me that this amendment ought to be out of order, since it does change the conditions of the appropriations and this is a Senate bill, which did not originate in the House. It seem that, in effect, it is an appropriation, or tantamount to an appropriation.

I, therefore, make a point of order, Mr. President, that this is out of order as an appropriation on a Senate bill.

The PRESIDING OFFICER. Is the Senator making a point of order under the Constitution?

Mr. JOHNSTON. Yes, in effect, I was.

The PRESIDING OFFICER. If that is what the Senator is doing, under the Constitution, points of order are submitted to the Senate for decision. Is that what the Senator desires?

Mr. TOWER. Mr. President, let me suggest that my distinguished friend withdraw that because, as a fact, we are not constitutionally barred in an authorization bill from repealing legislative language in a previous appropriations bill. To begin, with, an appropriations bill is not required by the Constitution to originate in the House. That is a matter of custom and usage. Only a revenue bill is required to originate in the House.

As a matter of act, what we say here is notwithstanding any other provision of previous law. If the contention of the distinguished Senator from Louisiana were permitted to prevail, it would be such that the Senate could never reverse itself.

I submit that one Congress can unbind what another Congress has bound, or even one session of a Congress can unbind what has been bound earlier in that same session. So I do not think that the point of order is well taken. I do not believe anybody else really thinks so.

I would suggest that we not submit that to a vote.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. TOWER. Some might not vote on the merits of that issue, and that would really be a very terrible precedent. I would hate for the Senate to vote that we cannot undo what we have done before.

Mr. JOHNSTON. Will the Senator yield?

I wonder if the Senator would want to wait until the distinguished Senator

from Oregon (Mr. HATFIELD) is back tomorrow?

Mr. TOWER. Let me first say that that bill has not been signed into law, so therefore it is not existing legislation anyway.

Mr. JOHNSTON. I do not intend to bring it up for a vote at this point. It seems to me the Senator from Oregon ought to have a couple of minutes on this tomorrow, because as chairman of the Appropriations Committee I think he has an interest. Whether or not the point of order is well taken or whether the Senate would vote on the point of order, I would imagine it is a good candidate for a blue slip from the Ways and Means Committee, because while the Senator is correct in that the Constitution requires only that revenue measures begin in the House of Representatives, it is very difficult to argue that point with the House of Representatives when they send a blue slip over returning the bill to you on the ground that——

Mr. TOWER. Really, that is not the point. The point is that this will be submitted to conference with the House. If they want to raise a point of order on it before the House, they can, although I do not think it really would be liable to a point of order in the House. It is just a matter of our rethinking what we have done a few days ago in deciding on a different tack. That is what that amounts to. We are fully competent to do that.

As far as I am concerned, trying to put this over until tomorrow means we just keep pushing all of these amendments ahead of us. Everybody has been on notice that this bill was coming up. Everybody has been on notice. I am sorry that my distinguished friend from Oregon is not here, but we are 2 days deep into this authorization bill with matters in it that I know he is concerned about. It would seem to me that he would have altered his schedule so he could be here. What if there were no other amendments to be offered but this? Would we have to delay the proceedings of the Senate until one Member came back?

Mr. JOHNSTON. Let me say to my distinguished friend that he does not have to delay. I felt, as the ranking minority member of the subcommittee that handles the measure, I should make the request. The Senator from Oregon is from the side of the aisle on which the Senator from Texas finds himself.

Mr. TOWER. I understand that.

Mr. JOHNSTON. So this addresses itself to the Senator from Texas and to his feel for the schedule.

Mr. TOWER. Well, then, we might come up with some other amendment and find that some other Senator has to be served; we have to wait for him to return from somewhere. I do not know where. I wonder how long we are going to play this game of having any individual Member stay out of town and expect his interests to be protected when we are trying to do our business expeditiously.

I am sure the Senator from Oregon would like to bring up some appropriation bills, but none of them are going to be brought up until we complete work on the defense authorization bill. The longer we go on this, the longer it is going to be before we can get to these appropriation bills. We are trying to expedite our authorizing business so that the appropriation process can start.

I resent not being able, 2 days deep into a bill, to get one rollcall vote on an amendment because some individual Senator has to be accommodated. It has been known for at least 2 weeks that this bill would be the pending business when we returned not on the 12th, not on the 13th, but on July 11. I have no certain knowledge that the Senator from Oregon will be here tomorrow morning.

We have several controversial amendments. We keep pushing all the controversy off until tomorrow. Tomorrow somebody will say: I have a controversial amendment but I am not ready to bring it up now.

So I for one am prepared to go to a vote on this issue. I dislike doing it since the Senator is out of town, but everybody has been given adequate notice. It is not springing anything on anybody, not nearly to the extent that the DOE bill was sprung on me, that the appropriation bill was passed before there was even any authorizing legislation.

Let me ask the Senator from Louisiana if he believes that appropriation bills should be passed willy-nilly, regardless of whether or not there is any authorizing legislation? Does he believe that is good procedure for us to follow?

Mr. JOHNSTON. I think it is bad procedure to pass any bill willy-nilly.

Mr. TOWER. Does he think it is good procedure to pass any appropriation bill before there is any authorizing legislation?

Mr. JOHNSTON. No, I certainly do not. And to that purpose I have many times urged authorizing committees to get their bills out, but, unfortunately, sometimes they do not do so. For examples, we have not had an authorization bill——

Mr. TOWER. I am glad the Senator gave me that opening. The reason the armed services bill was not reported around the 1st of May and acted on then was because we were waiting for the Budget Committee to act, for the first concurrent budget resolution, because we did not know what our ceiling would be, how much we would be permitted to spend, until the budget process worked its will.

Now, are we to be punished for waiting for the budget process to work its will?

Mr. JOHNSTON. How about the fiscal year 1983 authorization bill?

Mr. TOWER. Does the Senator from Louisiana say that we should ignore the budget process and go ahead and get our authorization bills out with any kind of spending we want regardless of the first concurrent? Is the first concurrent a scrap of paper that is to be ignored?

Mr. JOHNSTON. Sometimes.

Mr. TOWER. Does he believe it should be ignored on this bill?

Mr. JOHNSTON. No, I do not believe it should be ignored on this bill. But I say to the Senator——

Mr. TOWER. I know that, coincidentally, I have inquired about two committees to which the Senator from Louisiana belongs. I would have no questions about his third committee.

Mr. JOHNSTON. I can say to the Senator that sometimes rules have to be ignored—sometimes it is for good reason and sometimes it is not. But I will say to the Senator that I felt dutybound to ask for the Senator from Oregon, and having asked I will play it either way. If we are going to go to a vote tonight, let me say that there is no plan to filibuster or have extended debate, but there are some colleagues on this side of the aisle who will want to speak on the matter.

Mr. TOWER. If they want to speak, we will be delighted to have them here to speak.

Mr. JOHNSTON. Mr. President, my colleague, Senator BUMPERS, will want to speak.

Let me say, rather briefly, what the reasons of the committee were for taking the action that it has taken.

The project we are talking about, the 155-millimeter shell, with the enhanced recovery warhead, first of all, is redundant of the 8-inch shell. We have the 8-inch shell at present.

Reason No. 1, it is redundant. Reason No. 2—and perhaps I should put reason No. 2 as reason No. 1—there is no European country, there is no member of NATO which will accept the deployment of the 155-millimeter shell, not one will accept the shell.

Mr. TOWER. Will the Senator yield for a question?

Mr. JOHNSTON. I certainly will yield.

Mr. TOWER. Is it not true that at one time West Germany was prepared to deploy the enhanced radiation warhead? Is that correct?

Mr. JOHNSTON. That was on the Lance.

Mr. TOWER. But a decision was made by the President of the United States not do do so?

Mr. JOHNSTON. If the Senator will excuse me a moment, Mr. President, I

should like to withdraw the point of order at this point.

The PRESIDING OFFICER. The Senator has that right. The point of order is withdrawn.

Mr. JOHNSTON. It is my understanding that they were prepared to accept the Lance.

Mr. TOWER. They were prepared to accept it.

Mr. JOHNSTON. The Lance, not the 155.

Mr. TOWER. But they were prepared to accept enhanced radiation warheads?

Mr. JOHNSTON. Well, the ER warhead, that is right—the Lance and not the 155.

Mr. TOWER. But is it not true that we have Titan nuclear weapons deployed there now?

Mr. JOHNSTON. Of course.

Mr. TOWER. Is it not true also that we have reduced our inventory of such weapons unilaterally?

Mr. JOHNSTON. There has been very little reduction of inventory, but there has been some. I understand that some of it is simply unworkable and has been brought home. But there has been some reduction, the Senator is correct.

Mr. TOWER. Is it not true that there is less collateral damage with the 155 shell that we are talking about than there is with current tactical use?

Mr. JOHNSTON. I think that is not correct. I have been given the figures on that, and my staff tells me that that is correct. But I can tell the Senator that I think the total yield—and I may be treading on classified areas——

Mr. TOWER. In effect, there is less collateral damage.

Mr. JOHNSTON. I think the Senator is incorrect, and I would be happy to get the classified material.

Mr. TOWER. I will submit supporting data for the record.

Mr. JOHNSTON. I think the Senator is correct in that the percentage of those relative to neutrons is lower with respect to the ER shell than the conventional shell.

Mr. TOWER. The point is that there is less danger to the civilian community with this system that with the existing type of nuclear weapons because this is a more precise weapon, with the yield concentrated more precisely. Does the Senator dispute that?

Mr. JOHNSTON. I believe so, because the yield of the existing weapons is so low. It is very, very low. As I say, I think we are getting close to——

Mr. TOWER. I dislike saying the Senator is wrong on this issue, and I will be glad to submit supporting data. But, in fact, we were criticized in Europe for giving up the enhanced radiation warhead without asking anything in return. Now we have been forced to reduce somewhat our inventory of nuclear weapons without getting anything in return.

Really, what is at issue here is this, and let me ask the Senator from Louisiana this: What if we want to deploy this weapon someplace else in the world—in Southwest Asia? Would we be barred from doing so by the language of the appropriations bill because some NATO country would not agree to deploy it on their soil?

Mr. JOHNSTON. The 155-millimeter shell is designed for Europe. It has no use elsewhere. It is only in those areas, first of all, where there are massive tank attacks and, second, where the corridors of attack would lend to massing of those tanks.

Mr. TOWER. Is the Senator saying there will never be a massive tank attack in Southwest Asia, coming down from the Soviet Union? Is that beyond the realm of possibility?

Mr. JOHNSTON. It is beyond the realm of planning for the Department of Defense. At present, the 155 is not for that; and if that became a change in tactics and a change in requirements, there would be plenty of time to build the facilities.

Mr. TOWER. Is the Senator saying that this system would have absolutely no use in Korea? Is he willing to certify that as a military fact?

Mr. JOHNSTON. I am willing to say that that is not the use of this weapon at present.

Mr. TOWER. That is not the use we contemplate it for. But the point is that what you are doing in this language is that if the United States wants to build the construction facility to build these weapons for use anywhere we might feel our interests are threatened and this is a militarily efficacious weapon to use, we cannot do it until some NATO country says it is willing to deploy it on their soil. That is what we are doing—subordinating a national security decision of the United States of America to a foreign government.

What is wrong with having the President do it? Why do we have to have the President's own judgment on a national security issue subordinated to that of a European country?

Mr. JOHNSTON. Mr. President, I was yielding to a question from my distinguished friend from Texas, and I thought he was going to get around to making the argument that NATO was in fact going to change its mind.

The fact is that there appears to be very little inclination on the part of NATO to change its mind.

At present, there is not one NATO country which would take deployment of a 155-millimeter enhanced radiation shell.

Mr. President, we presently are operating under a 5-percent budget limitation—5-percent increase so far as the Budget Committee is concerned. Yet, we have weapons systems of about 10-percent real. The President's budget has a 14-percent nominal, 10-percent real, which means that we have to eliminate all kinds of weapons systems.

What we are saying on the Appropriations Committee—in fact, what the entire Senate said—is why go to build a multibillion dollar system in competition with other systems that can be deployed and that are needed—bombers, tanks, fighter aircrafts, and all the needs of the armed services—why go into building a multibillion dollar system when you cannot deploy it and when, in fact, it is redundant of other systems?

We are already producing an 8-inch nuclear shell, so why do we need a 6-inch? That is what a 155-millimeter is—it is a 6-inch shell.

It was originally proposed in 1969. Congress denied funds in 1973, again denied funds in 1975, again in 1976. It cut funds in 1979. Defense Secretary Brown terminated the program in 1981. There were no funds in the fiscal year 1983 appropriations bill.

It is, in fact, the lowest priority nuclear weapon. Not only is its deployment prohibited, but also, it is uncertain. If this weapon is needed in Southeast Asia or in Korea, it is news to me, and I have had the full briefing. It is news to anyone on the Armed Services Committee.

I think you could dream up an approach to say that you are going to use it in Diego Garcia or in an Antarctica, but the fact is that at this point the Army has never said it is needed anywhere but in Europe. It is European weapon, and in Europe you have an 8-inch shell, so why do you need a new 6-inch shell, when to fund the 6-inch shell will take billions from other weapons systems?

Mr. TOWER. I will tell the Senator why: because there are five times more, and you drive the Soviets crazy with that problem. It presents a terrible problem for them and enhances the capability enormously.

Anyway, why not go ahead and build the weapon, have it stockpiled, whether or not you deploy, whether or not you have peacetime permission from anybody to use it? You might get a different version in wartime. If the balloon goes up, it is better that you have the system. The fact that you have it might be a deterrent to the Soviets using nuclear weapons in Western Europe.

We talk about deterrence. Yes, it costs money. We spend billions for deterrence. We do not spend it because we seek territorial aggrandizement any place in the world or because we want to invade anybody. We spend money militarily to defend ourselves, to defend our vital interests abroad, and, it is hoped, to deter aggression against the United States and its friends.

Mr. JOHNSTON. Tell me why they took out so many items in this defense authorization bill.

Mr. TOWER. I will tell you why.

Mr. JOHNSTON. You took out a whole raft of weapons systems—oilers that are going to be built in my State, which cut me particularly to the quick.

Mr. TOWER. Only one.

Mr. JOHNSTON. You cut out hundreds of millions of dollars of other systems which were needed, which your committee thought were needed, because you did not have the money; and here you are going to build a multibillion dollar system. They are not multibillions here, but it is a first step toward a multibillion dollar system, and you cannot deploy it.

Mr. TOWER. We are talking about defense now.

Do not tell me the tactical nuclear deterrence is not important, that it is low on the scale of priorities. I do not think the Senator will find many military men who will agree with that.

Sure, we cut some systems out. We stretched some out. We did so without prejudice. In each instance, we said these are validated military requirements. We are doing so because we are mandated to do it.

Mr. JOHNSTON. That is what we are doing here.

Mr. TOWER. That is because the defense budget is being driven by budgetary perceptions or so-called economic considerations and not by national security needs.

Everyone has to take a piece. I took a licking on it. The Senator from Louisiana has also.

But now if we could fund everything we needed, we would restore those systems.

When the Senator talks about priorities, we scrubbed the priorities very carefully in the Armed Services Committee. If the Senator from Louisiana is suggesting that our sense of priorities is not very good, he is perfectly free to offer an amendment which I understand he is going to do relative to the B-1.

Mr. JOHNSTON. For example, the F-18—should we not proceed with the F-18 program ahead of the 155?

Mr. TOWER. I am not aware that we did not fund the F-18 program.

Mr. JOHNSTON. Did the committee not take out three F-18's?

Mr. TOWER. We took out several aircraft. Does the Senator know why? It was because of the budgetary constraints, having to maintain a balanced inventory, balanced production, and certain systems. To maintain the right mix of tactical aircraft, we had to underfund some of them.

I did not want to take any of them out. The Senator from Louisiana is the one who wanted to limit defense spending down to 5 percent. Now I suspect the Senator from Louisiana felt that maybe could be taken out of everyone's program but those in Louisiana. Sure, tactical aircraft fell out. A lot fell out in Texas, also. I did not advocate the ceiling, but let everyone understand here, that the reason we had to drop these systems out is not that we did not think they were validated military requirements but because of the artificial budgetary ceiling imposed.

Mr. JOHNSTON. I understand that.

Mr. TOWER. That marched us back from what we did the previous 2 years. The previous 2 years we endorsed the proven capitalization of getting production rates up to efficient rates, reducing per unit costs, and achieving military buildup for the 5-year period the President sought to achieve.

Then we get in a panic about economics, and in fact if it is economically sound to cut defense then I think that Members should be prepared to go back to their respective States and districts and tell the people who are unemployed by virtue of defense cuts that it is really good for them.

Mr. JOHNSTON. Mr. President, I see the distinguished Senator from Arkansas is in the Chamber.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, this whole matter came up rather unexpectedly 2 weeks ago on the energy and water bill. I did not realize it was in the bill and raised some concern about the necessity for this facility and this shell.

The Senator from Louisiana and the Senator from Oregon (Mr. HATFIELD) made a pretty cogent case in answering my concerns about this project labeled 82-D-109, which carries a $50 million appropriation to build a facility designed to produce 155 millimeter artillery warheads.

As I say, I had some question about the necessity of such a warhead in light of what we are already doing, but it occurred to me that the Senate conferees, in their compromise with the House of Representatives, reached what I would consider to be a sensible compromise. There is no production money involved here. We are talking about a facility to build 155-mm nuclear warheads.

Now I do not know whether the range of that 155-mm shell is classified or not, so I will not get into that and will not get into some of the battlefield tactics involved in using such a weapon.

But the point has already been made here by the Senator from Louisiana that we are already building 8-inch neutron warheads and we are putting neutron warheads on the Lance missile. We are producing those two weapons right now, and we do not at this moment have one single NATO ally, despite repeated urging by this administration, that has agreed to allow these weapons to be deployed on its soil.

It does not make much sense to me to spend $50 million for a facility to build a weapon that is of some questionable military value, particularly in light of the fact that we are already producing two other warheads which would have a much greater stymieing effect on a Soviet onslaught against Western Europe.

The funds for this weapon have been dropped six times since 1969. They have been dropped six times. There was a time when President Carter talked West Germany into accepting neutron weapons at some considerable political risk to the leaders of West Germany, and then shortly thereafter President Carter decided not to even build the neutron bomb.

I happen to agree with President Carter's decisions, but I must say it was not fair to the leaders of West Germany to implore them to accept the weapons and then, once they take some political flak in doing it to turn around and torpedo them by saying "We are not going to build the weapon anyway." But that is another story.

But it is related to what we are doing here because we are going to have one difficult time getting any NATO ally to agree to allow these weapons to be stored on their soil again.

The Europeans have not requested this system. They show every indication that they do not want it. OTA is presently planning a study on the whole issue of the need for battlefield nuclear weapons and their efficacy.

In June we had an American think tank which issued a two-volume study that said the U.S. investments in new nonnuclear weapons in the next 10 years would give NATO the ability to stop a massive Soviet attack in Europe without resorting to nuclear weapons.

The other really cogent point the Senator from Louisiana has already made is that the cost of this thing is enormous. The cost figures are classified but I think I have already heard someone say it is a multibillion dollar undertaking.

Mr. President, I have said about all I can say on the subject. The Senator from Louisiana has. I had hoped that we might be able to put it aside until Senator HATFIELD could be here, but if the Senator from Texas wants a vote on it, then we do not have any choice in my opinion but to go ahead with the vote unless someone wants to talk on this thing all night, and I am not one who does. However, we just got through adopting a conference report just before the July 4 recess, and that conference report was a result of a very meticulously worked-out compromise between the Senate and the House of Representatives, and now 2 weeks later to turn around and undo

that compromise does not make a lot of sense.

There is one other point I wish to make. We can spend appropriated money whether it has been authorized or not. It may not be a good practice and around here we sort of use the authorization process to hide behind if we do not want the money appropriated. But the truth is, and we know it is done all the time, money is spent that has been appropriated but not authorized. In this particular case, if the amendment of the Senator from Texas is defeated, there is $50 million appropriated for a 155-mm production facility, but it cannot be built until some NATO country says, "We are willing to accept it," and the President certifies to Congress that they have so agreed to accept it. That does not seem like much to ask the Congress to approve. It makes eminently good sense to me.

Mr. President, I yield the floor.

Mr. TOWER addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, let me reiterate one thing, and that is that the decision to deploy would be some time in coming. We could not deploy it for some time anyway. It seems to me only prudent, however, when the Soviets are modernizing their nuclear type weapons, their SS-21's, 22's, and 23's, and we sit around here with this old W-48, then we are not even staying in the deterrence game, and again it is a matter of the requirement being driven by the threat.

I do not like to spend $3 billion on a program or $5 billion or $10 billion or whatever it costs—I do not know what the costs are in the lifetime of this program, I have no idea because it is classified—yes, I do have an idea, in fact, of what we spend for other nuclear warheads.

So I do not think we ought to be debating the cost issue. The fact is everthing costs money, but we do it in response to a threat. The requirement is driven by the threat. I would be very sad indeed if Members of this body are prepared to see the Soviets continue to modernize their forces and not support the modernization of American forces at all.

We like to think we are technologically superior to the Soviets but, in fact, they are making technological improvements in their systems at a more rapid rate than we are, in many instances with the technology stolen from the United States, and, in fact, we have got better economic resources than the Soviet Union. The Soviet Union can afford to build offensive systems that threaten the United States, and we should acknowledge that we can afford to build the systems that defend against them with a much greater minimization of impact on our own economy, with a much lower percentage of gross national product than the Soviets do.

Are we going to sit here and contend that we cannot afford to spend 6 percent of our GNP on defending ourselves when the Russians can spend maybe 14 to 16 percent of their GNP on developing a war-winning capability against us?

How weak have we gotten? Have we forgotten the Winston Churchill of the 1930's or even the Winston Churchill of the postwar period in reconstructing what happened? It noted our decisions were driven by the world as we wanted to see it rather than what it really was. Because of our desire for peace we were driven to a posture of not properly arming ourselves for war.

The whole idea is one of deterrence, and I do not want a major national security issue of the United States submitted to a foreign government for approval. That is what is at issue here. Whether one believes in the efficacy of the weapon or not, whether one believes in its deterrent capability or not, why on earth would this Senate endorse the submission of an important national security decision of the United States to the decisionmaking process of a foreign government? That is the issue.

Mr. JACKSON. Mr. President, will the Senator yield?

Mr. TOWER. I yield to the Senator from Washington.

Mr. JACKSON. Clearly on the basis of substance, this is a matter for our Government to decide, Mr. President, and I hope we will not embark on this kind of a contingency situation in which a parliament of another country is going to decide, in effect, the substantive policy that is involved in this particular situation.

Mr. President, I hope the amendment will be adopted.

Mr. BUMPERS. Mr. President, will the Senator from Washington yield on that point, because I think he and the Senator from Texas have raised a point that would necessarily be of concern to all of us, and that is putting our future into the hands of the parliaments of other nations.

So far as that is concerned, did we not set virtually the same limits on the 155 binary weapons? Have we not in the past said that the production of the 155 binary weapons would be contingent upon our ability to store those on foreign soil and not go into production on them until some NATO nation agreed to accept them?

Mr. TOWER. Mr. President, will the Senator cite the source of that?

Mr. BUMPERS. I am asking the question because I am not sure of it, and I thought maybe——

Mr. TOWER. I do not know of such restrictions.

Mr. JACKSON. I have never heard, I will say to my good friend from Arkansas, of any such restrictions. He is referring to the deployment of binary weapons, and I know of no such precedent that would be comparable to the matter that is now before the Senate.

Mr. TOWER. I think any nation——

Mr. BUMPERS. Let me read the amendment to you that was adopted last year.

Mr. JACKSON. We can place a restriction where weapons are to be deployed, but it is something else again to say that the production of those weapons——

Mr. BUMPERS. Production.

Mr. TOWER. In fact, we will not deploy any kind they do not want to deploy there. Obviously we must have the consent of the nation to deploy them there.

Mr. BUMPERS. Here is the precise amendment agreed to by the Senate last year, and you can interpret it any way you want. I think you are getting into a case of semantics. But the amendment offered by Mr. HATFIELD which was accepted last year said:

SEC. 1117. (a) Notwithstanding any other provision of law, no funds may be obligated or expended after the date of enactment of this Act for production of binary chemical weapons unless the President certifies to the Congress that—

(1) it is the policy of the United States not to engage in live chemical or bacteriological agent testing on human beings and that the President rejects the findings of the Ad Hoc Air Force Advisory Board that such testing is critical;

(2) for each binary artillery shell produced, a unitary shell from the existing arsenal shall be destroyed, until such time that the Government of the Federal Republic of Germany and the North Atlantic Treaty Organization Council of Ministers approve replacement of existing stocks of lethal chemical munitions forward deployed in the Federal Republic of Germany with lethal binary chemical munitions; and

(3)(A) the United States has undertaken bilateral negotiations for a period not less than 300 days with the Government of the Soviet Union for the purpose of concluding a verifiable treaty barring production and stockpiling of chemical weapon and has concluded that such negotiations cannot produce agreement; or

Bear in mind the first part of that amendment says we may not produce those weapons until the President certifies that the Germans have said we can replace existing stocks in Germany with binaries.

I can see little difference between that amendment and the one that is being objected to here, namely, that we are depending on another country to tell us that they will do certain things before we can produce.

Mr. JOHNSTON addressed the Chair.

Mr. TOWER. Let me say there is——

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. I yield to the Senator from Texas.

Mr. TOWER. Mr. President, there is a difference because what is referred to here is production and not the construction of facilities to produce.

Mr. JOHNSTON. Mr. President, I wonder if the distinguished Senator from Texas would allow me to lay this amendment aside for not longer than 60 seconds in order to bring up an amendment with respect to a liver transplant covered under CHAMPUS?

Mr. TOWER. Mr. President, I ask unanimous consent that the amendment I offered to S. 675 be temporarily laid aside so that the Senator from Louisiana may offer an amendment as he described it, with the understanding that we will return to the consideration of my amendment after the disposition of the amendment of the Senator from Lousiana.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

AMENDMENT NO. 1463

(Purpose: To provide express legislative authority for the cost of certain liver transplants to be covered under CHAMPUS)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment numbered 1463.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

SEC. . (a) Section 1079(a) of title 10, United States Code, is amended—

(1) by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and "and"; and

(2) by adding at the end thereof the following:

"(6)(A) liver transplant operations for dependents under age 18 may be provided at hospitals which have been approved for such purposes by the Secretary of Defense and deemed appropriate based upon demonstrated rates of survival and demonstrated abilities to perform the operation after consulting with the Secretary of Health and Human Services and such other parties as the Secretary deems appropriate; and (B) such costs as the Secretary of Defense, after consulting with the Secretary of Health and Human Services, considers appropriate for the acquisition and transportation of any liver donated for any liver transplant operation provided under any such contract may be paid by the Department of Defense under such contract.".

(b) Notwithstanding any other provision of law, the Secretary of Defense or his designee shall take such action as is necessary in the case of contracts entered into before the date of enactment of this Act, including modifying such contracts and making advance payments under such contracts, to provide under such contracts for liver transplant operations and payments authorized by section 1079(a)(6) of title 10, United States Code (as added by subsection (a)).

Mr. JOHNSTON. Mr. President, I have the privilege today to offer an amendment to protect military families from potentially heart-breaking situations. My amendment will close an existing gap on health care coverage for military families by providing explicit authority for the civilian health and medical programs of the uniformed services (CHAMPUS) to cover the cost of liver transplants for children under age 18 at hospitals approved by the Secretary of Defense after consultation with the Secretary of Health and Human Services and such other parties as the Secretary deems appropriate. All costs associated with a transplant, including organ acquisition, transportation of the donated organ, the transplant procedure, and any resulting medical treatment would be covered under my amendment. This amendment would also direct the Secretary of Defense to negotiate existing contracts, as needed, to carry out the purposes of this amendment.

The need for this change was brought to my attention as a result of a tragic situation involving an Army family stationed at the U.S. Army ammunition plant in Minden, La. This family's 2-year-old daughter, Adriane, was born with a fatal disease, extrahepatic biliary atresia, which causes obstruction of the bile duct. Adriane has undergone extensive medical treatment to try to correct this problem, including surgery soon after birth, but efforts to reverse the downhill course she is on have failed. The only way of helping Adriane now, according to medical experts, is for her to have a liver transplant; without a transplant, she will die.

Since last fall, when I was first contacted by Adriane's father, I have been exploring every avenue possible in the Department of Defense to find a way to cover the costs of this procedure. DOD officials, however, believe they can neither authorize nor contract for this procedure without express legislative authority. Many dispute this interpretation and at this point, Mr. President, I ask unanimous consent that a comprehensive response to this interpretation sent by the chairman and ranking Member of the House Committee on Science and Technology's Subcommittee on Investigations to Defense Secretary Weinberger be printed in the RECORD.

There being no objection, the response was ordered to be printed in the RECORD, as follows:

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON SCIENCE AND TECHNOLOGY,
Washington, D.C., May 9, 1983.

Hon. CASPAR W. WEINBERGER,
Secretary, Department of Defense, The Pentagon, Washington, D.C.

DEAR MR. SECRETARY: We appreciate your reply dated 28 April 1983, in response to our letter of April 14, 1983, concerning the denial of CHAMPUS coverage for liver transplants generally, and for Adriane Brockerick in particular. We understand the difficulties that this issue may present for the Department of Defense, yet we continue to be unpersuaded by DOD's reasoning and concerned by DOD's position.

We base our concern on the additional information we present below and ask that you reconsider this matter in light of this information. We appreciate your further consideration of the following:

1. The DOD policy to deny payment for organ transplants is based on an alleged Congressional mandate found in the legislative history of the 1966 law creating CHAMPUS: To quote from the DOD reply, "It explicitly states that CHAMPUS coverage policies be in consonance with the Federal Employee Health Benefits Program, Blue Cross/Blue Shield high option benefit" (FEP). Because DOD believes liver transplant surgery is still an investigational or experimental procedure, and because DOD believes the FEP precludes coverage of investigational and experimental procedures, DOD has denied CHAMPUS reimbursement. Our own investigation of this matter leads us to a different conclusion. The FEP has no blanket or national policy that excludes coverage of liver transplants either because they are investigational and/or experimental or for any other reason. As we understand, the FEP does not decide specific coverage issues on a national basis. Rather, coverage determinations are a local issue and the FEP excludes from coverage those procedures "not provided in accordance with accepted professional medical standards" in the area where the procedure is performed. While such standard may generally mean that liver transplants are not covered, it does not preclude coverage. We have informally consulted with the General Accounting Office and GAO concurs in our interpretation that the CHAMPUS law does not preclude reimbursement for liver transplants, even if considered experimental. The Blue Cross/Blue Shield plan for Western Pennsylvania is instructive on this issue since it covers liver and other transplants. Blue Cross of Western Pennsylvania made this decision after an extensive evaluation that demonstrated within that region human organ transplants (including liver and heart) are in accordance with accepted professional medical standards. Following this local decision, the FEP, in fact, covered at least one federal employee's liver transplant done in Pittsburgh.

We ask that you consider the following experience Pittsburgh has had with the reimbursement of transplants. In a period from May 1981 to November 1982, 36 liver transplants were done at the Children's Hospital, Pittsburgh, Pennsylvania. Nineteen of these have been paid in full: three by the Pennsylvania Blue Cross Plan; eight by other Blue Cross plans; three by commercial plans; two by foreign governments; one by a State Medicaid program; and two from other sources. Nine other transplant recipients still have balances on their accounts, seven of which are under $8,000 (the

average cost of a procedure during this time was $70,000); five were paid by commercial plans; one by a Blue Cross plan; one paid in monthly installments; one paid by a foreign government; and one from other sources. Only five have not paid, and these are primarily individuals without any health insurance. There were no cases where an insurance plan refused to pay.

2. The DOD response also cites the current position regarding liver transplant surgery taken by Medicare, National Blue Cross/Blue Shield, the National Institutes of Health, and the Office of Personnel Management as supportive of the DOD policy of classifying this procedure as investigational. Our investigation has revealed the following points:

a. DOD relies on the position of OPM. Yet, our investigation of OPM policy in this matter has revealed that, in fact, OPM has no policy directly addressing liver transplants. From time to time OPM does discourage certain medical practices. An example would be OPM policies to discourage cosmetic surgery and abortion. But they have not done this for liver transplants.

The contract OPM has with Blue Cross, which is the Blue Cross Health Benefits Program, also *does not* have an exclusion for experimental surgery. Under the contract, coverage is decided at the local level in accordance with accepted professional medical standards in that locality. It is true that the National Blue Cross/Blue Shield Association policy manual—a manual providing no binding advice to local plans—there is language that generally restricts experimental medical procedures. However, this is a general statement of a national association and does not reflect the actual language or policy found in the FEP Blue Cross contract.

We would ask that your staff closely at this distinction, as it is an important one and may help to explain some of the confusion on the experimental issue. Again, we would point out that the actual FEP policy is to defer to the accepted professional medical standards at the location where treatment is sought. As we noted earlier, there is at least one example of an individual covered by FEP Blue Cross receiving a liver transplant and that this procedure was covered and that this was in accordance with FEP and OPM policy.

b. DOD also relies on the Public Health Service. The Public Health Service, which is responsible for helping HCFA determine the scientific status of procedures that HCFA cannot readily classify as either investigational or therapeutic, has not made a finding on liver transplants since 1980, at which time the one year survival rate was about 35 percent. This would be the "Medicare" position cited in the DOD response.

Additionally, we point out that Medicare decisions are based primarily on coverage of those individuals over age 65. This disability portion of Medicare only covers those individuals above 18 years of age. Thus, a decision by Medicare would not be based on the child population that has been the focus of our request to DOD.

In a 20-year period beginning in May 1981, again at Children's Hospital, Pittsburgh, Pennsylvania, 103 children were evaluated as potential transplant candidates. Of this number: eight were found to be inappropriate candidates; 22 died before a donor was found; 38 were transplanted; and 35 are still waiting. Of the 38 that received transplants: 24 are still living, 12 for more than one year. This works out to a one-year survival rate of approximately 63 percent.

c. The third position noted by DOD is the one taken by National Blue Cross/Blue Shield. The National Blue Cross/Blue Shield Association contacted our offices immediately following the April 27th hearing. The expressed concern over the DOD testimony. They stated that the March 31, 1983 finding by the medical advisory subcommittee that these procedures are still investigational is just that, advisory, and does not determine coverage. Coverage is based on the accepted professional medical standards within each individual area that a Blue Cross plan operates.

Additionally, it seems somewhat disengenuous for DOD to base its decision in part to deny coverage to Adriane Broderick in 1982 on a March 1983 opinion of the advisory group.

Finally, DOD cites the position taken by NIH. However, NIH has not taken a position on whether or not liver transplants are investigational. Our investigation of NIH policy reveals that as a rule, NIH does not make decisions on medical practices but deals with questions about research. Exceptions to this rule can be found within the National Cancer Institute and the National Heart, Lung and Blood Institute, but not within the National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases where the issue of liver transplants resides. It is true that in 1980, during the National Center for Health Care Technology investigation of liver transplants, NCHCT sought NIH's opinion about the efficacy of liver transplants. However, NIH's response was only to do a non-scientific search of the currently available published information at that time. It was this information that NIH supplied NCHCT and not an opinion about the practice of liver transplants.

3. In paragraph six of the DOD response, the following statements were made: "We recognize that at places like the Universities of Pittsburgh and Tennessee the rate of successful operations has improved since 1980. However, a number of other facilities have had high mortality rates, and there is little statistically valid data available about the effects of these new protocols and the long-term survival rate of the operation."

At the April 27th hearing, witnesses for HCFA testified that only four centers were conducting liver transplants. In point 2(b) of this letter, we have provided you with data presented by Gartner et al before the American Pediatric Society and the Society for Pediatric Research. We would find it helpful in our Subcommittee's continuing investigation of human organ transplants, if you could supply us with the data you have, indicating recent high mortality rates at other facilities.

To the extent that survival rates differ at different centers, we would have no problem with a decision by DOD to allow CHAMPUS reimbursement for organ transplants only at selected centers. This would be consistent with FEP.

4. We hope DOD has had an opportunity to re-evaluate statements made during the April 27th hearing. In the face of testimony which clearly stated that, without a liver transplant, 100 percent of these children would die during early childhood, DOD witnesses called reimbursement of this treatment "legally objectionable" and stated that at present undergoing this surgery was "more likely to harm the patient than to help." Instead, DOD's witness proposed that tax dollars would be better spent assisting these families in public fund-raising drives aimed at covering the costs of the very procedures they are citing as too risky to endorse through coverage. This policy makes absolutely no sense. Either DOD supports the efficacy of transplants or it does not.

We must, therefore, interpret DOD's efforts in assisting these families in public fund-raising drives as an endorsement of the transplant procedures. Certainly DOD would not be encouraging families to undergo a treatment of questionable efficacy. Accordingly, if DOD can endorse transplants in the fund-raising context, little basis would seem to exist for its negative stance on CHAMPUS' coverage for such procedures.

In closing, Mr. Secretary, we continue to believe that CHAMPUS should cover the children of eligible military personnel who can benefit from a liver transplant. We urge that you immediately reverse the CHAMPUS policy and not wait for the NIH conference.

To reiterate, we base this request on four grounds:

(1) The law certainly allows and does not preclude CHAMPUS from covering these procedures;

(2) While significant questions remain, substantial evidence indicates that, for these children, the procedures are clearly therapeutic and have been found to be in accordance with accepted professional medical standards;

(3) Considering the medical care and costs still required while allowing these children to die, preliminary data indicates use of organ transplant surgery is cost-effective; and

(4) We believe the Federal Government must show compassion for the men and women of the uniformed services, whom we ask to defend our Nation with their very lives. The very least we can do is to come to their aid and do everything we can to help save the lives of their children.

In light of these reasons and the facts presented within this letter, we would appreciate further consideration and your prompt reply.

Sincerely,

ALBERT GORE, JR.,
Chairman, Subcommittee on Investigations and Oversight.
JOE SKEEN,
Ranking Minority Member, Subcommittee on Investigations and Oversight.

Mr. JOHNSTON. As long as the question persists, however, we have no alternative other than taking immediate action to provide the legislative authority needed if we are to give Adriane and other children of military families a chance to undergo this life-saving procedure.

One of the curious points DOD officials have raised to justify denying CHAMPUS coverage for liver transplants is the Department's view that liver transplants are still at the investigational stage and are not considered therapeutic. Specifically, in testimony delivered on April 27, 1983 before the House Subcommittee on Investigations and Oversight, Acting Assistant Secretary of Defense (Health Affairs) John Beary testified that:

Our Office of General Counsel has advised me that it would be legally objectionable to pay for experimental medicines and surgery, until such time that medical researchers prove that a therapy is effective

and that it is not more likely to harm the patient than to help.

This opinion shows virtually total ignorance of the great strides which have been made in perfecting liver transplantation procedures, particularly for the treatment of biliary atresia. Over 540 such operations have been performed in four centers in the United States and Western Europe since 1963 and, more recently, other centers in this country and elsewhere have gained valuable experience with this procedure. That greater experience with liver transplants has brought about dramatic results is demonstrated by this fact: In 1980, the one year survivial rate for liver transplant patients according to the Health Care Financing Administration [HCFA] was about 35 percent, but according to the June 1983 National Institutes of Health [NIH] assessment of liver transplants for patients suffering from biliary atresia, almost two-thirds have survived for one year or more.

The spectacular strides in this area of medical research, and resulting questions on how to select candidates for transplantation, led the NIH to convene a Consensus Development Conference on Liver Transplantation late last month. That conference issued a statement which concluded that liver transplants have proven technically feasible and offer an "alternate therapeutic approach which may prolong life in some patients suffering from liver disease that has progressed beyond the reach of currently available treatment and consequently carries a predictably poor prognosis." These findings certainly meet Assistant Secretary Beary's criteria that a therapy be effective and not more likely to harm the patient than to help. Moreover, the NIH statement concludes that liver transplantation "is a therapeutic modality for end-stage liver diseases that deserves broader application" and recommends that "in order for liver transplantation to gain its full therapeutic potential, the indications for and results of the procedure must be the object of comprehensive, coordinated, and ongoing evaluation in the years ahead."

The NIH Consensus panel made no specific statement with regard to liver transplantation's status as experimental or therapeutic. However, the panel's chairman, Dr. Rudi Schmid, indicated that the panel was excluded from addressing this issue by the nature of the NIH assessment process which is intended to be strictly scientific and not to reflect issues of public policy. There is no doubt in my mind, however, that the thrust of the report implies that liver transplantation, particularly for biliary atresia, is considered therapeutic and indeed, the review of the House Subcommittee on Investigations and Oversight led the members to conclude that "for these children (suffering from biliary atresia), the procedures are clearly therapeutic and * * * in accordance with accepted professional standards."

I submit, Mr. President, that transplants such as that needed by Adriane, on the basis of the NIH statement which was put together by eminent scientists and physicians in the field, are no longer guess-work, but are sound therapeutic procedures for those who have no hope left. I further submit that CHAMPUS should take the lead from the NIH statement and participate fully and willingly in the recommended "comprehensive, coordinated and ongoing evaluation" of liver transplants by providing full coverage for patients from military families.

CHAMPUS, as the provider of health care for military families, has a responsibility to provide first class treatment for the families of these men and women. When CHAMPUS was created, the purpose of the legislation submitted by DOD to the Congress was "to increase the attractiveness of a military career by improving the health care program for the dependents of active duty members of the uniformed services. * * *" My esteemed and distinguished former colleague, the late Eddie Hébert who served the First District of Louisiana for 32 years, floor-managed this legislation in the House in 1966. I found particularly enlightening a quick review of the debate on this legislation. This review underscored the totally bipartisan, and unanimous support, that the concept of providing health care for military families enjoyed. This concpet, which made improvements in the Dependent Medical Care Act of 1956, which also managed by Mr. Hébert, was endorsed by parties from all parts of the political spectrum and as Mr. Hébert forcefully argued was intended to "provide a tremendous contribution to the enhancement of the morale of our military families. * * *" I submit, Mr. President, that most of my colleagues would still agree with Eddie Hébert's compelling statement that "We can do no less than assure these men that their families will have guaranteed to them first-class medical care. * * *" In my view, first class care does not include denying coverage to a 2-year old for a desperately needed liver transplant which she must have to be given a chance to live.

DOD raised another curious point in justifying the Department's position. Although I am somewhat reluctant to bring this issue to my colleague's attention, because in my opinion it is not reflective of the truly caring nature of most Army, Navy, and other service medical personnel, I am compelled to address it here. That issue is cost. In a March 1983 letter, Acting Assistant Secretary Beary, is what I consider an unusual opinion, asserted in attempting to justify DOD's position, that "An additional concern is the high cost of the procedure (liver transplantation), typically $50,000 to $60,000, versus the expected long-range benefit to be derived." Frankly I was outraged by the implication that any cost could outweigh the benefit of giving a small child a reasonable chance, now recognized at about two-thirds of the patients undergoing the procedure, a chance to live. But aside from the unbelievable implications of that assessment, I was amazed that no recognition was apparetnly given whatsoever, in a cost assessment, to the cost of providing long-term care for a terminally ill child. I am informally advised that audits by university officials of the costs of providing care during the last 6 months of life of children dying from biliary atresia have been in the $60,000 to $70,000 range. Moreover, this cost/benefit ratio ignores the cost of other approved surgery, which in Adriane's case have exceeded to date $40,000. I suspect that if all the costs were known, those costs would well outweigh the costs of a transplant, but even if they did not, no cost should be too great for a procedure recognized as a promising alternative by the NIH and one which promises the hope of a normal life, to reject that procedure out of hand on that basis. There may be other compelling reasons, but certainly cost has no place in that determination.

Let me also state for the record, Mr. President, that this amendment will not open the floodgates by setting new wide-ranging precedents. CHAMPUS already provides coverage for corneal, kidney, and bone marrow transplants as well as for skin grafts. Precedents, therefore, exist for covering organ transplants. Moreover, almost 25 percent of State medicaid programs cover the cost of liver transplants. In my own State, Louisiana, our medicaid program just approved coverage for a liver transplant request from another child suffering from biliary atresia. There are also numerous instances of private insurance plans paying for liver transplants. CHAMPUS should do no less.

It is also interesting to note, Mr. President, that transplants recommended to avert death which will result in the end-stages of biliary atresia are not likely to be a common request. It is roughly estimated that 25 out of 1 million infants are born with bile duct blockage. Many of these infants die soon after birth, and of those who survive, not all will be likely candidates for a transplant. To my knowledge, there are currently three children considered good candidates for such transplants who have put in request to CHAMPUS for coverage for this procedure.

In sum, let me state that we ask the men and women of the uniformed to give their all, even their lives, to defend our Nation. In turn, it seems to me that we can do no less than provide the very best health care and most particularly life-saving procedures, to save the lives of their children.

All this amendment does is to expunge the doubt that presently exists under the CHAMPUS program as to whether liver transplants can be covered under the CHAMPUS program. We think they should be, but so far the authorities have not sought to interpret the law in that way and we have a particularly heartrending case of a 2-year-old girl in Louisiana who needs the program.

So I ask for favorable consideration of the amendment.

Mr. JACKSON. Will the Senator yield?

Mr. JOHNSTON. Certainly.

Mr. JACKSON. Mr. President, under the existing CHAMPUS program, can other transplants, such as kidney transplants, be undertaken?

Mr. JOHNSTON. The Senator is correct.

Mr. JACKSON. So it is only a situation where there is a need for liver transplants? Is that the reason for the amendment?

Mr. JOHNSTON. As I understand it, this covers only liver transplants.

Mr. JACKSON. I understand, but is this the only current type of transplant that is not covered under CHAMPUS? Are there other types of transplants that might be needed that are not covered?

Mr. TOWER. May I say a word on this?

Mr. JOHNSTON. If the Senator will yield, as I understand it, it depends on whether they are experimental. They are not allowed if they are experimental and they are allowed if they are not experimental.

Mr. TOWER. In fact, although liver transplants are considered experimental or have been considered experimental, in fact they are sort of on the cusp of the experimental category. I think it is a good amendment and I think we should accept it. I believe the Senator from Washington will accept the amendment, as well.

Mr. JACKSON. I support the amendment.

The PRESIDING OFFICER (Mrs. HAWKINS). If there is no further debate, the question is on agreeing to the amendment of the Senator from Louisiana (Mr. JOHNSTON).

The amendment (No. 1463) was agreed to.

Mr. TOWER. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 1462

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Texas.

Mr. TOWER. Madam President, I believe we are ready to vote. I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BUMPERS. Madam President, before we vote on this, in my remarks a moment ago I referred to a think-tank group that said we are rapidly reaching the point where our entire strategy in NATO should be changed because we have assumed that at some point NATO would be overrun to the sea unless we had to make this agonizing decision—God forbid it ever having to be made—on whether or not to use nuclear weapons.

The Baltimore Sun, on June 5, published an article condensing this very extensive two-volume study and setting out the kinds of weapons, many of which are in production and some of which will be in production, which they predict very shortly will require an entire change of NATO strategy in defending against a major, all-out Soviet onslaught across Europe.

I will not bother to read it, but to all of those Senators who are listening here or in their offices I hope they will take the time to read the summary in tomorrow's RECORD.

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the (Baltimore) Sun, June 5, 1983]

THINK TANK SEES VIABLE ALTERNATIVE TO USE OF NUCLEAR WEAPONS

PARIS.—New non-nuclear weapons in the next 10 years will give NATO a "real hope of stopping a massive Soviet attack in Europe without using nuclear weapons," an American think tank says in a new two-volume study.

The survey, "Assault Breaker and the NATO High-Tech Revolution," is the work of Forecast Associates of Danbury, Conn., a company that does aerospace and defense analysis. It sells for $1,250.

"Assault breaker" is a U.S. Army term covering broad response to major attacks, and the study predicts that new conventional weapons can redress the balance between the estimated 45,000 Warsaw Pact tanks and NATO's 12,000.

"The scenario so far has been that we would be overrun to the sea unless the agonizing decision to use nuclear weapons is taken," said Edward M. Nebinger, Forecast Associates' research director, in an interview.

"Very few people outside the military establishment realize that as these systems come together, they will enable a major shift in NATO strategy."

The study pulls together information on all known assault-breaking weapons programs in NATO nations and forecasts developments in the next decade. It predicts the alliance's members will invest $320 billion on such weapons through 1992, including aircraft, helicopters and tanks as well as the new munitions and electronic equipment at the core of the battlefield revolution.

Many of the new weapons are in production—Israel has tested some in combat—and others are at an advanced stage of development.

They include:

Sub-munitions—for example, hundreds of mini-bombs spread by a single fighter and able to home in on and destroy tanks. "The Air Force has been told a single fighter pass can destroy 4 to 10 tanks in a column," said Mr. Nebinger.

Some of the bomblets can act as proximity mines, exploding only when armored vehicles come near. Others land, sense tanks and automatically fire guided sub-missiles at them.

"Smart" mini-missiles such as the U.S. WASP system, "which are so sophisticated that if two are heading for the same tank, one will turn away and seek another target," he said.

Rocket-assisted artillery shells with extra range and penetrating power to hammer rear supply areas.

Hand-held antitank weapons that Mr. Nebinger said will be "in each platoon on the battlefield of the late 1980s, able to take out the heaviest tank through its front armor."

Remote-controlled aircraft for battlefield survey and destruction of electronic communications and other systems. The Israelis have used them in Lebanon.

Revolutionary battlefield electronics giving each commander an instant battlefield situation report.

Anti-airfield and smart bombs to destroy runways and neutralize Soviet air power.

Fuel-air explosives, dropped from aircraft, that spread a mist which explodes with between 2.5 and 5 times the force of an equivalent weight of TNT, destroying with blast rather than napalm-like flame. One such bomb is a 15,000-pounder known as the Daisy Cutter.

While NATO must also rely on tanks for defense and mobility, large battle tanks "will lose their cost effectiveness because they will be so easily destroyed," said Mr. Nebinger.

"There will be a revolution in armored vehicles, too, with a new mix as the Army moves to light, faster vehicles with higher firepower."

"We see a change in the art of defense, and an advantage for the West in being on the defensive, because we know we won't attack them. They have the armor; NATO will have the defensive systems."

Mr. JOHNSTON. Madam President, I will not be longer than about a minute. Just to sum up, Madam President, with this system, as with many, the good is in the enemy of the best. There are many best weapons systems that can be deployed that are clearly needed in this Defense Appropriations Act. They have suffered because there have been some systems, at least with this system, that are not so clear. This one is not clear, Madam President, first, because it is exceedingly expensive. Being a multibillion dollars, this may be the most expensive nuclear weapons warhead outside of the MX. It may be, I am not certain of that, but it may be. I can tell you it is a multibillion dollars.

Second, it cannot be deployed at the present time because the Europeans will not accept it. All the fencing amendment, approved by this Senate 2 weeks ago, said was that you do not build production facilities until at least one NATO country is willing to accept the weapon.

It seems to me that we, therefore, protect the public. We do not say "no" to a 155-millimeter shell. We say, "Let's don't build it at this time when we are having to cancel and cut back other weapons systems until they are needed, until we know that the European countries, at least one, is willing to accept this." Because would it not be a terrible waste to go through the whole program, multibillions of dollars, and have the Europeans finally say, "We will never accept it under any circumstance"?

That is all the Senate did, the Congress did, when it approved that amendment. We think that decision should not now be reversed.

Mr. TOWER. Madam President, the production is not a multibillion-dollar program. That is all we propose to do is build the facility if the President makes the proper certification. There is no additional money in this amendment. There is no additional money in this bill for the facility.

If this amendment is defeated, there will not be 1 dime of additional money to be distributed among other systems. So let me make that very clear.

Mr. BUMPERS. Madam President, I say to the Senator from Texas, on that last statement, it is my understanding that $50 million has been appropriated in the energy and water bill and, if the President signs that, that money is appropriated. Now, it is true that the Senator from Texas is trying to authorize that expenditure in his amendment, as I understand it.

Mr. TOWER. Yes, we authorized that expenditure because, as the Senator knows, that is an instance in which the appropriation was acted upon before there was any authorization bill. Unfortunately, a matter of great importance to national defense is contained in another account, the Department of Energy account. We authorized it, but we have very little control over what happens in the appropriations process. It is tied in with energy and water, which is an inappropriate place for it to be. It ought to be free-standing legislation, in my view, rather than stuck in, because very often you could get the business of taking energy and water projects out of the hide of nuclear weapons systems. It does not make any sense.

Mr. BUMPERS. Madam President, I think this is a very important point that we ought to make sure everybody understands. The Senator's amendment brings the authorization in conformity with the appropriation, is that not correct?

Mr. JOHNSTON. Madam President, what this amendment does, the Senate Appropriations Committee, or should I say the Senate, the Congress in the appropriations bill appropriated $50 million for production facilities but had, as a part of that, the following language:

> That notwithstanding any other provision of law, no funds may be obligated or expended after the date of enactment of this Act for Project 82-D-109 unless the President certifies to Congress that—
>
> (1) for each 155mm nuclear weapon produced an existing 155mm nuclear weapon shall be removed from the stockpile and permanently dismantled; and

And here is the important point—

> (2) formal notification has been received from the North Atlantic Treaty Organization nation in which such weapons are sought to be deployed that such nation has approved replacement of existing 155mm nuclear weapons with the new 155mm nuclear weapon.

Now, what this amendment would seek to do would be to remove that fence. The bill, as far as I can see, does not authorize this program at all.

Mr. TOWER. Madam President, let me straighten that out. The bill already authorizes the expenditure. The amendment addresses itself only to the fencing items.

Mr. BUMPERS. Madam President, I understood the Senator from Texas to say a while ago that, even if his amendment passed, not one dime has been authorized to build this facility. The conference committee report says:

> The conference includes $50 million for Project 82-D-109, 155 millimeter artillery fired atomic projectile production facilities.

The Senate passed conference report just says those funds cannot be obligated without Presidential certification, as the Senator has pointed out. My point is, if the Senator's amendment is adopted, then the President of the United States can certify to the Congress that the building of this facility is in our national interest and that the building of that facility can then go forward; is that not correct?

Mr. JOHNSTON. The Senator is correct. If Senator TOWER's amendment is adopted, then the President can proceed with building the facility even though there is not a single NATO country willing to accept deployment of the shell.

Mr. BUMPERS. One other question of the Senator. Does the Senator's amendment also remove the requirement that one existing 155-millimeter shell be destroyed for every 155 produced?

Mr. TOWER. It does remove it, but, we proposed to replace these on a 1-for-1 basis. In other words, the ratio is greater in retirement.

Mr. BUMPERS. So both conditions in the conference agreement of the energy and water bill would be removed.

Mr. TOWER. That is correct.

Mr. BUMPERS. Mr. President, I want to make one final point to emphasize that we are not talking about the only nuclear warhead that can be used against the Soviets in Europe. If we were talking about the only nuclear warhead that was being built, I might be agreeing with the Senator from Texas. But I doubt that the issue would have to come up, because I do not think this money would have been in the conference committee on energy and water.

What we are talking about is a third tactical nuclear weapons system, a third nuclear weapons system, because we are already in full-scale production on the 8-inch shell and the lance missile. I think there is some question, and I do not know whether the Armed Services Committee has gotten into this yet or not, among a lot of our best military people about the advisability of even using a 155 in combat. It would have to be used under very strict predetermined conditions. Otherwise, we might lose our own men if we start firing that shell.

So bear in mind that we are talking about a third system.

Madam President, I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. TOWER. Let me say that if we deploy this, we would still have a lesser system than the Soviets have.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Alaska (Mr. MURKOWSKI), the Senator from Indiana (Mr. QUAYLE), and the Senator from Wyoming (Mr. WALLOP) are necessarily absent.

I further announce that, if present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

Mr. CRANSTON. I announce that the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PELL), and the Senator from Mississippi (Mr. STENNIS) are necessarily absent.

I also announce that the Senator from West Virginia (Mr. RANDOLPH) is absent because of illness.

I further announce that, if present and voting, the Senator from Rhode Island (Mr. PELL), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from West Virginia (Mr. RANDOLPH) would each vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 47, nays 42, as follows:

[Rollcall Vote No. 182 Leg.]

YEAS—47

Abdnor	Garn	McClure
Armstrong	Goldwater	Nickles
Baker	Gorton	Nunn
Bentsen	Grassley	Roth
Byrd	Hatch	Rudman
Chafee	Hecht	Simpson
Cochran	Heflin	Stafford
Cohen	Helms	Stevens
D'Amato	Humphrey	Symms
Denton	Jackson	Thurmond
Dixon	Jepsen	Tower
Dole	Kassebaum	Trible
Domenici	Kasten	Warner
East	Laxalt	Wilson
Exon	Lugar	Zorinsky
Ford	Mattingly	

NAYS—42

Andrews	Durenberger	Metzenbaum
Baucus	Eagleton	Mitchell
Biden	Glenn	Moynihan
Bingaman	Hawkins	Packwood
Boren	Heinz	Percy
Boschwitz	Huddleston	Pressler
Bradley	Inouye	Proxmire
Bumpers	Johnston	Pryor
Burdick	Lautenberg	Riegle
Chiles	Leahy	Sarbanes
Cranston	Levin	Sasser
Danforth	Mathias	Specter
DeConcini	Matsunaga	Tsongas
Dodd	Melcher	Weicker

NOT VOTING—11

Hart	Long	Randolph
Hatfield	Murkowski	Stennis
Hollings	Pell	Wallop
Kennedy	Quayle	

So Mr. TOWER's amendment (No. 1462) was agreed to.

Mr. TOWER. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JACKSON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. BAKER. Madam President, if I may have the attention of Senators——

The PRESIDING OFFICER. Senators will please take their seats.

Mr. BAKER. Madam President, may I inquire of the managers of this measure how much more they think they can accomplish tonight and give us some estimate of how long we will still be on this measure?

Mr. TOWER. If I may respond to the distinguished majority leader, I believe that Senator GOLDWATER is prepared to offer an amendment that I think is relatively noncontroversial and will take a very short time, on which there will be a voice vote. Senator SPECTER has a sense-of-the-Senate resolution to offer which has, I think, been worked out to the satisfaction of almost everybody involved, on which he wants a rollcall vote.

I assume that that would probably be the last rollcall vote we will be able to scare up tonight.

Mr. BAKER. Very well.

Madam President, on that basis I would say we would be here another 30 to 45 minutes.

ORDER FOR RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Madam President, while I have the floor, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 11 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1464

(Purpose: To amend section 401 of Public Law 95-202 to permit the award of campaign and service medals to certain persons whose service to the Armed Forces is considered to be active duty for purposes of laws administered by the Veterans' Administration)

Mr. GOLDWATER. Madam President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. Senators desiring to carry on conversation will please retire to the cloakroom.

The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. GOLDWATER) proposes an amendment numbered 1464:

At an appropriate place in the bill insert the following new section: Sec. xx. Subsection (b) of section 401 of the GI Bill Improvements Act of 1977 (Public Law 95-202; 91 Stat. 1449; 38 U.S.C. 106 note) is amended by adding at the end thereof the following new paragraph:

"(3) Under regulations prescribed by the Secretary of Defense, any person who is issued a discharge under honorable conditions pursuant to the implementation of subsection (a) of this section may be awarded any campaign or service medal warranted by such person's service.".

(b) The amendment made by subsection (a) of this Act shall apply to all persons issued discharges under honorable conditions pursuant to section 401 of the GI Bill Improvements Act of 1977, whether such discharges are awarded before, on, or after the date of enactment of this Act.

Mr. GOLDWATER. Madam President, this is primarily a clarifying amendment designed to clarify the intent of section 401 of the GI Bill Improvements Act of 1977.

The Army and Navy have interpreted the language of that section to permit the award of campaign and service medals to persons who are issued discharges under the authority of that section. The Air Force does not believe the language of that section permits the award of these medals. As a result, persons receiving military discharges and becoming entitled to Veterans' Administration benefits under this section of law are being treated differently, based upon which service processes their application.

The amendment would clarify the language by making it clear that campaign and service medals could be awarded when discharges are awarded to persons coming within the purview of section 401 of the GI Bill Improvements Act.

Madam President, this amendment has only negligible cost. It is supported by the Department of Defense, and it seems appropriate to me, and I move its adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. TOWER. Madam President, we are prepared to accept the amendment of the Senator from Arizona.

I yield to my distinguished colleague.

Mr. JACKSON. Madam President, I concur in that recommendation.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 1464) was agreed to.

Mr. JACKSON. Madam President, I move to reconsider the vote by which the amendment was agreed to.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Madam President, it is my understanding that the Senator from Pennsylvania was prepared to offer his amendment.

Mr. SPECTER. I am prepared to proceed.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 1465

Mr. SPECTER. Madam President, I sent an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The acting assistant legislative clerk read as follows:

The Senator from Pennsylvania (Mr. SPECTER) proposes an amendment numbered 1465.

Mr. SPECTER. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Since relations between the United States and the Union of Soviet Socialist Republics are currently characterized by considerable tension;

Since on-going nuclear arms negotiations on strategic and theater force reductions being conducted by the duly appointed representatives to the respective parleys have not achieved satisfactory results to date;

Since a carefully prepared summit could facilitate the accomplishment of the objectives of these negotiations and lead to a reduction in the risk of nuclear war;

Since a carefully prepared summit could also lead to progress in resolving other major issues troubling relations between the two superpowers;

Since both President Reagan and President Andropov have indicated their willing-

ness in principle to participate in such a carefully prepared summit;

It is the sense of the Senate that the President of the United States and the President of the Union of Soviet Socialist Republics should meet at the earliest practical time following thorough preparation to discuss major issues in U.S.-Soviet relations and to work for the realization of mutual, equitable and verifiable reductions in nuclear arms.

Mr. SPECTER. Madam President, this amendment to the Department of Defense authorization bill is designed to urge President Reagan and President Andropov to have a summit meeting at the earliest practical time in order to discuss a variety of problems facing the two nations and, in the language of the amendment, "to work for the realization of mutual, equitable, and verifiable reductions in nuclear arms."

A similar amendment was offered to the Department of Defense authorization bill which was passed by the Senate in May of last year; and on this amendment calling for a summit, the Senate voted, by 92 to 6, in favor of such immediate summit.

I am offering this amendment again this year, because of my view that the Senate has a constitutional role for advice and consent; and in the field of international relations and in the field of United States-Soviet relations, as it relates to the issue of arms reduction, it is my firm view that the Senate should speak up and should give advice to the President in advance of any treaty, so that the President will have a specific and concrete idea as to where the Senate stands on a matter of this tremendous importance.

It is obviously true that, under the Constitution, the conduct of foreign affairs is a matter for the Executive. But it is equally clear that the Senate has a constitutional role in its function to consent to treaties. It has been the Senate's refusal to consider SALT II and ratify that treaty which has led to an expression of the Senate's view. It is appropriate, in my opinion, for the Senate to express itself at this time on its interest and its view about the importance of a summit on a range of problems as recited in the sense-of-the-Senate resolution but, more specifically, on the issue of verifiable reductions in nuclear arms.

Madam President, I offer this amendment at this time and press it for a rollcall vote because I think it is germane that the President and the Nation and the world, including the Soviets, know what the sense of the Senate is on this matter.

My own view is that time is of the essence. It is very important that the United States and the Soviet Union, as represented by their leaders, President Reagan and President Andropov, move for such a summit meeting at the earliest practical time, given the opportunity for appropriate preparation.

I say that time is of the essence for three reasons, and those three reasons are Reagan, Andropov, and Pershing II.

In President Reagan, the United States has a unique bargainer, a unique communicator, and someone who has demonstrated enormous capability in negotiations with world leaders. Most of us in this body have had the opportunity to discuss matters face to face with the President, so that we are all able to attest to his power of persuasion. It is my judgment that the President could advance the interests of peace and make a tremendous contribution because of those unique talents.

President Andropov is rumored to be in ill health, and that is a fact. The extent of his health generally is not subject to positive confirmation. But it is unlikely that his health will be improved in a few months; and if there is to be another change in Soviet leadership, that would only delay the process for summit discussion.

The third reason that leads me to conclude that time is of the essence is the prospective deployment of the Pershing II, which is scheduled, along with the cruise missiles, for deployment in late 1983. It is my view that the topography of Western Europe will change dramatically with the deployment of these missiles—Pershing II and the cruise missiles—and that there will be a very different international atmosphere for negotiations; and it is vitally important that the summit negotiations be convened prior to the deployment of the Pershing II missiles.

For a summit to await until 1984, will not do because it will be a Presidential election year. And if President Reagan is a candidate for reelection, there will be an atmosphere of pure politics on whatever he may do; if he is not a candidate for reelection—that is, a President about to retire—then his bargaining power is similarly reduced, which makes it of great importance that the matter proceed in 1983 rather than in 1984.

There are many signals—from Chancellor Kohl's recent visit to the Soviet Union to the proceedings which are now in process in Madrid on the discussions concerning the Helsinki accord—that there is a sense of willingness on the part of both the Soviet Union and the United States to proceed to such a summit. The columnists write on this subject daily, and it is my view that the momentum has been building significantly.

A solid vote by the U.S. Senate on our sense urging the President to move forward for a summit as promptly as possible would have significant effect in pushing for the summit and in causing the early establishment of a date.

Madam President, at a time when the Senate is being called upon to authorize a Department of Defense budget in the range of $265 billion, it seems to me entirely appropriate that the Senate should be saying to the President, "We concur in your two-track approach," the first track being strength against the Soviet Union, and the second track being activity in arms negotiations. But there is reason to conclude that the strategic arms reduction talks and the INF talks in Geneva are not proceeding with sufficient dispatch and with sufficient success and a good opportunity to break that impasse if presented with the leader of the United States and the leader of the Soviet Union sitting down in face-to-face discussions.

Certainly there is much to be gained and virtually nothing to be lost.

On the consideration about expectations being too high, that consideration can be accommodated or taken care of by a frank statement by President Reagan, or by President Andropov, for that matter, as to the parameters of the discussions or the parameters of the expectations. But considering that the most important issue facing the world today is the arms race, which poses the issue of destruction or survival, the balance tips strongly in favor of taking every conceivable step to move toward arms reduction, and that is the reason why I urge the Senate to support this sense-of-the-Senate resolution for an immediate summit.

I thank the Chair, and I yield the floor.

Mr. SYMMS. Madam President, I take the floor for the purpose of asking my good friend from Pennsylvania a couple of questions. The first would be: In the sense-of-the-Senate resolution itself in the third line from the bottom where the Senator says, "It is the sense of the Senate that the President of the United States and the President of the Union of Soviet Socialist Republics should meet at the earliest practical time," would the Senator consider accepting language right here that said "mutually acceptable practical time"?

Mr. SPECTER. Yes.

Mr. SYMMS. I so ask unanimous consent that the amendment be modified as such.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator send the modification to the desk.

Mr. SYMMS. I send the modification to the desk.

I thank the Senator for accepting the modification.

But I would say to the Senator that I am sorry that we have brought this issue up where the Members of the Senate will be asked to vote on this issue. I do think that this is an impor-

tant issue that the Senator brings up, and I deeply believe that the arms race is an important issue. But I think that there is another issue that is just as important as the arms race, and that is the lack of personal human rights, freedom, and opportunity that characterizes the system that President Andropov is president of.

I made the comment in my home State at an agriculture hearing last week that probably the best friends the American farmers have are the Communists and the Soviets. This is because if the Soviets ever adopted the private property ethic which we have in our great Nation, they could farm so much and produce so much that they would not have to buy foodstuffs from other parts of the world, and we would not have the market to sell our goods. So in a way, ironically, they indirectly are friends of the American farmer because of the ineptness with which they run the Soviet Empire—the Soviet slave state.

But I just feel very uncomfortable with the Senator's position, and I know he views it as an attempt to advise and consent, but I view this more as trying to tell the President what he must do. If we read the general American news media, we would get the impression that Mr. Andropov is a very nice, smiling old gentleman. They never mention the fact that he headed the KGB, and as it will probably come out later, I think it is safe to say that there is a great deal of evidence that points to the fact that the KGB under Mr. Andropov's direction had a lot to do with the attempted assassination of the Pope. He was the Soviet Ambassador who was in Hungary, I believe, saying that the Soviets would not come in when in fact they were coming in.

So there is a protracted record of dishonesty, of trying to achieve the goals of the Soviet Union wrapped around Mr. Andropov.

I think that to tell President Reagan that he has to go sit down with a leader of the Soviet Union that has violated numerous treaties—SALT I, SALT II, the ABM Treaty—the Kennedy-Khrushchev agreement that is right now pumping massive military aid into Central America, to tell our President that he has to go sit down with him, I feel somewhat uncomfortable about voting to advise the President to do this.

I would feel more comfortable to allow the President of the United States to be the person to make the decision when, in his view, it is in the best interest of the United States that he sit down and have a summit conference with the head of the Soviet slave state.

It may sound good, and there is oftentimes a perception out here that somehow this Andropov is a really fine guy. I am reminded of Al Capone. Al Capone said, "A charming, charismatic young man could go a long ways with a smile, but he can get a lot farther with a smile and a gun." I think that is what Andropov does. He uses force. He does not play by the same rules we play by.

We have an election every 2 years in this country, and we allow ourselves to get sucked into a trap of thinking we have to get an agreement. We are going to get an agreement no matter what we ought to do. We are going to get an agreement so we can go back out and campaign on it.

I am not saying that is what the good Senator from Pennsylvania is doing. I do not mean to impugn the motives behind the Senator's amendment, but I think as a Nation we force our political leaders—our Presidents, our Secretaries of State, whether they be Republican or Democratic—to go to a bargaining table and feel as if they have to get an agreement no matter what. The Soviets do not have the same kind of elective process that we have. So we put our negotiators at a disadvantage in dealing with them, and that is my concern.

So I might say, Madam President, I am not sure that the modification that I offer makes much difference to this amendment and it may be, if I am so inclined, I will vote against the amendment. I will ask unanimous consent to have my modification taken down so that my amendment will not be part of it. I ask unanimous consent that my amendment be taken down.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Idaho?

Mr. SPECTER. I do not object.

Mr. SYMMS. I thank the good Senator for not objecting.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I hate to be in a position to vote against my own amendment, and I am not sure that I will do so, but I do not think that the word "mutually" will make much difference in the thrust of this amendment.

What this amendment is going to do is tell President Reagan that the U.S. Senate is telling him that he has to go have a summit conference with the leaders of the Soviet Union, and we know that the heads of the Soviet Union will never have a summit conference with the President of the United States unless the Soviet leaders think it is in the best interests of the Soviet Union. He is not concerned about whether it is in the best interests of the United States.

I think it puts us at a disadvantage and puts our President at a disadvantage.

I for one would just feel more comfortable to not address this issue in this bill, and I think it is rather difficult. If one votes against it, it looks as though we are not in favor of mutually verifiable arms reduction. This Senator certainly is in favor of mutually verifiable arms reductions.

But I think that there is a much bigger problem in this world than the arms race, and that is a lack of respect for personal freedom, for human rights, for private property which is a part of human rights, for the right to religious freedom, for all of those things that the millions of people who live behind the Iron and Bamboo Curtains suffer from. Those problems are much greater than the arms race that we are discussing here today, and wondering whether or not we can get an agreement when the record clearly shows that if President Reagan sat down with President Andropov and they did come to some kind of an agreement the Soviets will only keep the agreement as long as they view it in their best interest to do so. And then once it is not in their best interest, they will violate the treaty.

I think the record of history will back up that statement. I say that to my good friend. I wanted to make that statement before this vote is cast so that people will understand why I might vote the way I will.

I thank the Senator and I yield the floor.

The PRESIDING OFFICER (Mr. JEPSEN). The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I agree with my good friend, the distinguished Senator from Idaho, who has said in his remarks what he has said, but I would disagree with his conclusions as to what the sense of the Senate amendment is saying.

We are not telling President Reagan to come to any agreement. We are simply telling him that it would be our sense that it would be preferable to move toward a summit at the earliest practical time.

President Reagan has already stated his willingness and his interest in principle in having a summit, so it is a question of timing. What the Senate would be saying to the President is that we think now is the right time.

When the Senator from Idaho talks about the importance of personal rights and freedom, I agree with him. This resolution is designed to encompass, as it does, "major issues in United States-Soviet relations," which would comprehend the issues of human rights, the issues of the Pentecostalists, the issues of Soviet Jewry on human rights.

When the comment is made about the analogy of Al Capone and Mr. Andropov, the fundamental difference is that the U.S. Government can deal with Al Capone within the criminal justice system. It can prosecute him and put him in jail.

But in this world the Soviet Union occupies a significant part of the face

of the Earth, as does the United States, and when we have leaders of such two nations it is simply incumbent, notwithstanding any personal distaste there may be, for them to meet and to talk. it is analogous to the most bitter kind of litigation which is faced in the courts when lawyers, no matter how personally disposed they may be to opposing counsel, must sit down and talk and try to work toward a settlement.

But there is no direction here, and there is no order by the Senate; only our sense as to timing.

I hope the Senator from Idaho will vote in favor of this amendment.

In agreeing very promptly, as I did, to the insertion of the change which the Senator suggested, which I thought was significant and carried out a reservation which he had, I would hope he would yet reinstate it without any objection and vote in favor of this resolution.

Mr. PERCY addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. PERCY. Mr. President, I wish to, first of all, commend my distinguished colleague from Pennsylvania, Senator SPECTER, for the consistency with which he has taken this position over a very long period of time.

I became convinced in November 1980 when I went to Moscow that a face-to-face discussion between Mr. Brezhnev and President Reagan—he was then President-elect—would be a highly desirable thing. I have consistently held that position, and my distinguished colleague from Pennsylvania has at times been a lone voice in the wilderness in calling for this because there are certain concerns about a summit.

But the way the pending amendment before us is now drafted, it would provide for careful preparation. There has been an indicated willingness on both sides. We have had the way paved now by Chancellor Kohl's meeting, and Vice Chancellor Genscher's meeting, of the Federal Republic of German, and they have briefed us through Vice Chancellor Genscher as to the nature of the discussions that they have had, which I feel are productive, extremely helpful, and there can be, I feel, a well-prepared set of talks.

This can advance the cause of peace, this can advance the cause of understanding. It is not going to resolve the vast differences that exist between our two societies. They are going to exist for a long time to come. But we live in an age where it is too dangerous for two of the most powerful men on Earth to not meet face to face and personally get a gage of each other and have a chance to express their views forthrightly.

The resolution before us I hope will be overwhelmingly supported by the Senate. If this resolution had been presented to the Committee on Foreign Relations, I feel confident it would have earned the overwhelming support of that committee as well.

I think the timing is right for it now and I commend my distinguished colleague once again for his foresight and for his tenacity of purpose in seeing that we go on record now as the Senate of the United States in support of a summit meeting properly prepared but at the earliest possible time, taking that into account.

The PRESIDING OFFICER. Who desires recognition? Is there any further debate?

Mr. SPECTER. Mr. President, I ask unanimous consent that the Senator from New York (Mr. D'AMATO) be added as an original cosponsor. I make the same request with respect to Senator HEINZ.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAKER. Mr. President, have the yeas and nays been ordered?

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BAKER. Mr. President, there will be no more rollcall votes tonight. There may be other business transacted but this will be the last rollcall vote today.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Pennsylvania. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. STEVENS. I announce that the Senator from Oregon (Mr. HATFIELD), the Senator from Alaska (Mr. MURKOWSKI), and the Senator from Indiana (Mr. QUAYLE), are necessarily absent.

Mr. CRANSTON. I announce that the Senator from Illinois (Mr. DIXON), the Senator from Colorado (Mr. HART), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Louisiana (Mr. LONG), the Senator from Rhode Island (Mr. PELL), the Senator from Mississippi (Mr. STENNIS), are necessarily absent.

I also announce that the Senator from West Virginia (Mr. RANDOLPH) is absent because of illness.

I further announce that, if present and voting, the Senator from Illinois (Mr. DIXON), the Senator from Massachusetts (Mr. KENNEDY), the Senator from West Virginia (Mr. RANDOLPH), and the Senator from Rhode Island (Mr. PELL), would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber wishing to vote?

The result was announced—yeas 82, nays 7, as follows:

[Rollcall Vote No. 183 Leg.]

YEAS—82

Abdnor	Ford	Mitchell
Andrews	Garn	Moynihan
Armstrong	Glenn	Nickles
Baker	Gorton	Nunn
Baucus	Grassley	Packwood
Bentsen	Hatch	Percy
Biden	Hawkins	Pressler
Bingaman	Hecht	Proxmire
Boren	Heflin	Pryor
Boschwitz	Heinz	Riegle
Bradley	Huddleston	Roth
Bumpers	Humphrey	Rudman
Burdick	Inouye	Sarbanes
Byrd	Jackson	Sasser
Chafee	Jepsen	Simpson
Chiles	Johnston	Specter
Cochran	Kassebaum	Stafford
Cohen	Kasten	Stevens
Cranston	Lautenberg	Thurmond
D'Amato	Laxalt	Tower
Danforth	Leahy	Trible
DeConcini	Levin	Tsongas
Dodd	Lugar	Warner
Dole	Mathias	Weicker
Domenici	Matsunaga	Wilson
Durenberger	Mattingly	Zorinsky
Eagleton	Melcher	
Exon	Metzenbaum	

NAYS—7

Denton	Helms	Wallop
East	McClure	
Goldwater	Symms	

NOT VOTING—11

Dixon	Kennedy	Quayle
Hart	Long	Randolph
Hatfield	Murkowski	Stennis
Hollings	Pell	

So Mr. SPECTER's amendment (No. 1465) was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I indicated earlier that there would be no more record votes this evening. I ask unanimous consent that there now be a period for the transaction of routine morning business to extend not past the hour of 7:45 p.m., in which Senators may speak.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE BICENTENNIAL OF THE TREATY OF PARIS

Mr. MATHIAS. Mr. President, Benjamin West left unfinished his painting of the Commissioners who negotiated the Treaty of Paris. The traditional reason that he could not finish was that the British delegation refused to pose.

In a sense, the celebration of the Bicentennial of the Treaty of Paris at the Pentagon on June 28, 1983, is the completion of the picture. Not only was the British side handsomely represented by the Ambassador of Great

Britain, but France, Spain, and the Netherlands were all also in the picture, as they should be.

Although gratitude is said to be the least articulate of emotions, it is not too late for Americans to say thanks for the help other nations have given us which has led to our present station in life. The anniversary of the Treaty of Paris is not a bad time to say thanks for the help that, in some cases, began before the beginning.

We must thank France for funds, muskets, soldiers, encouragement and, above all, for the French Navy which made the victory at Yorktown possible.

We must thank Spain for secret subsidies, loans, and war materiel, and for the moral effect her alliance with France in the war against Great Britain had on the rest of Europe.

We must thank the Netherlands for solid Dutch guilders loaned with great risk and for the first formal diplomatic recognition of sovereignty when John Adams was received as minister by the Prince of Orange.

And we must thank Britain for living for two centuries by the words of King George III himself, spoken to John Adams after the ratification of the Treaty of Paris:

I was the last to consent to the separation; but the separation having been made, and having become inevitable, I have always said, as I say now, that I would be the first to meet the friendship of the United States as an individual power.

Mr. President, I am tempted to read into the RECORD all the remarks made at the Pentagon's celebration of the Treaty of Paris because they illuminated many forgotten moments of history. However, the need to hold down congressional printing costs combined with a natural frugality impel me to include only the following highlights of the occasion.

Secretary of the Army John Marsh conveyed this message from Secretary of Defense Weinberger:

The Treaty of Paris signed on the 3rd of September, 1783, is considered the third most important document in our history. This Treaty was the first step in building our nation. We became independent, sovereign and our boundaries were extended westward to the Mississippi River.

As we look back at the extraordinary efforts of those negotiators, we realize their skill, diplomacy and vision made possible the acceptance of these United States in the community of nations. As we reflect on the significance of that occasion and those events of history which have bound us together, we realize the far-reaching implications of the Treaty and trust that future generations will celebrate the deeds of the peacemakers.

Rear Adm. Jan J. Leefiang, defense and naval attaché, the Royal Netherlands Embassy:

(T)he American minister, John Adams, your later President, was formally received as Minister of Plenipotentiary from the United States in April of 1782 in The Hague thereby establishing the oldest diplomatic relations of this country. . . .

We lost in having the peace treaty signed because from then on we had to share John Adams with the Court of St. James as he became minister to the two countries. But, as he had put down in the Treaty of Amity and Commerce of 1782, I quote, "The stable, inviolable and universal peace and sincere friendship between the High Mightiness the States General of the United Provinces and the United States of America" existed ever since between our two countries as has been celebrated so extensively last year.

Alonso Alverez de Toledo, Minister, Embassy of Spain:

My admiration goes to the many of you who practice that American virtue of reaching out and sharing with as many people as possible those things in the past that because of their relevancy have become the stuff history is made of. How often it is in other nations, including mine, that only those who venture into archives and libraries are able to have such a close look at their own history.

(E)xhibits such as the one being dedicated here today cannot but contribute in enlarging the knowledge of the American people as to the measure in which Spain helped the Americans to win their independence, and by renouncing its own claims made possible the Treaty of Paris by which your country was formally recognized a sovereign nation and accepted into the community of nations.

Bernard Boyer, Chargé d'Affaires a.i. of France:

(W)e are here to celebrate the Treaty of Paris. That means first that this treaty ended a war. This war was not easily won because the British troops and the British generals were gallant and competent. But, the American troops had perhaps more spirit because they defended their right to freedom. . . .

But, I must say that in the common memory of the French people, we don't remember that we won the war against the British. We remember that we won a war with the Americans. And this is because it was the birth of a great nation. . . . (Y)ou taught us how to be free and how to have self-government. . . . And . . . I think it's not a mere coincidence that the five powers which are represented here today all belong to the North Atlantic Alliance . . . an alliance which has been founded to defend freedom. . . .

Sir Oliver Wright, the British Ambassador:

Twice in this century the new world has been called in to redress the balance of the old. And, together Europe and North America represent 500 million people devoted to the cause of liberty and justice, the greatest concentration of such people in the world. And, as my French colleague has said, 500 million people who are joined together in an alliance to protect that freedom; 500 million people who are joined in the trading partnership to insure the prosperity of these people.

Chief Justice Warren E. Burger:

I have a feeling . . . that never in history has a country from a posture of weakness rather than strength, gone so far . . . against such a powerful adversary in the negotiations and come away with so much. . . .

Not only did Britain cede them the fishing rights off the northeast coast, they virtually gave the rest of the continent to us, and of course, recognized not a nation as sometimes is said, but recognized thirteen separate states and their independence and their freedom. And, that laid the foundation.

(T)hink of the 200 years of history since then, we have the former adversaries joining together along with the other great people of Europe to preserve the values that were acknowledged in the Declaration of Independence, then established by the Constitution and made possible in terms of the expansion and the independence by the treaty.

AMERICA CELEBRATES ST. BRENDAN THE NAVIGATOR

Mr. MATHIAS. Mr. President, over 1,300 years ago, St. Brendan the navigator, an Irish monk, made a documented crossing of the Atlantic. This feat will be celebrated in a series of sailing races and festivals throughout the country this summer. The flagship event will take place August 3 through 7, 1983, in the sailing capital of the world, Annapolis, Md.

The idea for the festival conceived by sailors and members of the Irish-American community who were intrigued by the thought of combining yacht racing with onland Celtic cultural events. It was their desire that the two events be held concurrently in a major celebration of nautical and cultural traditions.

The St. Brendan Cup Committee in America was formed in late summer of 1981, and formally launched in March 1982, at a reception held here at the Embassy of Ireland. Membership is unrestricted. A St. Brendan Committee in Ireland is being formed with a view toward determining the feasibility of a transoceanic race between the two countries.

The first Brendan celebration was held last year in Annapolis, on May 21 and 22. Over 150 boats, representing 16 racing-class associations, participated in a 2-day racing series sanctioned by the Chesapeake Bay Yacht Racing Association. The presence of Irish curraghs—traditional boats of the west coast of Ireland and the type said to have been used by Brendan—added a unique dimension to the occasion. Awards of Waterford crystal were presented to the successful skippers and navigators by His Excellency Tadgh O'Sullivan, Ambassador of Ireland, and the honorary patron of the St. Brendan Cup Committee in America.

This year's events in Annapolis will open on August 3, 1983, with a ceremony at the State capital and an exhibition of artifacts pertaining to St. Brendan. Other Brendan celebrations are being planned for New York, New London, and Boston, during 1983, and Newport, Philadelphia, Baltimore, Charleston, and Savannah for 1984.

The Irish have contributed greatly over the centuries to the United States and we welcome this opportunity to

recognize their unique contributions. In celebrating St. Brendan, we recognize the enormous contributions of Irish and Irish Americans to our national heritage. I invite all Americans, to join in the commemoration of the wealth of Irish culture and the spirit of St. Brendan the navigator.

DON HENDERSON

Mr. PERCY. Mr. President, it is my sad duty to announce to the Senate the death of Donald G. Henderson, who was a member of the professional staff of the Foreign Relations Committee from 1958 to 1977. Don died of cancer in the Circle Terrace Hospital in Alexandria on July 8.

While on the staff of the Foreign Relations Committee, Don handled European affairs as well as international financial institutions and educational and cultural exchange programs. He was the staff member in charge of the Atlantic Assembly.

Our sympathy goes to his family. I ask unanimous consent that the obituary from the Washington Post be included in the RECORD at this point.

There being no objection, the obituary was ordered to be printed in the RECORD, as follows:

[From the Washington Post, July 10, 1983]

D. G. HENDERSON, EX-DEPUTY CHIEF OF SENATE PANEL

Donald Graham Henderson, 61, who served on the staff of the Senate Foreign Relations Committee from 1958 to 1977 and was its deputy chief of staff for the last two of those years, died of cancer July 8 at Circle Terrace Hospital in Alexandria. He lived in Alexandria.

He began his government career in 1952 with the Central Intelligence Agency, where he worked on African and Western European affairs in its Office of National Estimates. After joining the Senate committee, he also worked on European and African affairs, as well as international financial institutions, educational and cultural exchange programs and NATO.

Mr. Henderson was born in London and reared in New York City. He received bachelor's and master's degrees from the University of North Carolina, where he was a member of Phi Beta Kappa. He also received bachelor's and master's degrees from Magdalen College, Oxford, where he was a Rhodes Scholar. He was a Fulbright Scholar at the University of Paris.

Survivors include his wife of 36 years, Alaine Marsh Henderson of Alexandria; a son, Geoffrey, of Washington, and two daughters, Joyce Henderson of Cairo, and Diana Henderson of New York City.

ROBERT MALOTT SPEAKS ON CURRENT INTERNATIONAL TRADE ISSUES

Mr. PERCY. Mr. President, I was privileged recently to introduce Robert H. Malott at a hearing before the Senate Governmental Affairs Committee. He is the distinguished and able chairman of the board and chief executive officer of FMC Corp. and a director of the Chamber of Commerce of the United States. I have known Bob Malott for many years and he has built his company—ranked as the 31st largest U.S. exporter—into one of the most innovative and forward-looking enterprises in America.

Mr. Malott testified before the Governmental Affairs Committee on June 29, 1983, in favor of the establishment of a new Department of International Trade and Industry embodied in Senator ROTH'S bill, S. 121. He emphasized that international trade is a vital part of our GNP growth. We now export 20 percent of our industrial output and 40 percent of our farm products. Exporting is simply one of the best ways we can spur job creation and development of new technology. No one could know better than Bob Malott how foreign trade helps us keep our competitive edge while expanding jobs. He has seen those principles at work within his own corporation.

Mr. Malott sees the chief benefits of an International Trade Department as unifying the Government's trade policy and trade implementation functions. An International Trade Department would be a responsible and effective structure within the U.S. Government to form decisive foreign trade policies, according to Mr. Malott. It would also establish a strong Cabinet Council in the White House to resolve trade disputes within the administration.

Mr. Malott elaborated on these objectives in a speech that he delivered at the Cornell Graduate School of Business on April 7, 1983, entitled "World Trade on the Brink of Crisis." He emphasized that the current world recession has impacted both the Third World countries as well as the industrialized countries of the world, creating a drastic increase in the world's unemployment rate. Governments around the world have intervened to protect domestic industries and attempt to promote higher development of profoundly different attitudes concerning the conduct of economic affairs, according to Mr. Malott.

Mr. Malott's excellent suggestion is that "industrial nations need a fundamental change in their strategic thinking. It is not specific trade barriers or even specific industrial policies that are the issue—it is the very structure of the international trading system itself." He also calls for another conference on the order of Bretton Woods—a conference of the same breadth, depth and stature—to sort our differences, harmonize conflicting interests, and create an international trading system that recognizes the needs of the 1980's and the decades ahead. That system will have to compromise between the oft-invoked ideal of free trade and today's political inclination toward managed trade. Whatever balance we strike, an enduring system must be one that accommodates legitimate national interests, and at the same time, insures rational and predictable trading rules—a system that allows complete competition within an overall framework of political cooperation.

Mr. President, so that these important messages on international trade may receive the attention they so richly deserve, I ask unanimous consent that the full text of Mr. Malott's speech regarding "World Trade on the Brink of Crisis" and his testimony before the Governmental Affairs Committee be printed in the RECORD, and I commend them strongly to my colleagues.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WORLD TRADE ON THE BRINK OF CRISIS

(By Robert H. Malott)

In 1980, world trade reached a record $2 trillion. The future looked bright. But since then, hopes for the continued expansion of world trade have been dashed. In the past two years, world trade first stagnated and then declined, taking the worst plunge in nearly 40 years. International trade no longer appears to be an engine of growth and mutual prosperity, but the victim of recession and economic chauvinism.

The world's major trading nations all appear to be headed on a collision course, as each seeks to fuel growth by expanding exports and restraining imports. In country after country, the mercantilist attitude of the 1930's is again gaining ground.

The institutions created in the aftermath of World War II to smooth the course of international trade and finance no longer seem equal to the task. The General Agreement on Tariffs and Trade (GATT) is now being derided as the "gentleman's agreement to talk and tarry," while the International Monetary Fund (IMF) is straining to keep countries and their creditors afloat.

Clearly, the international trading system is on the brink of crisis. A new course must be charted. Let's examine how we arrived at the present impasse and see how we might resolve our current problems and move toward a workable international trading system.

THE WORLD ECONOMY IN TRANSITION

The current strains in the international trading system did not arise overnight. Owing to profound structural changes in the world economic order, they have been building for nearly a decade.

From 1948 until 1973, world trade grew at an average real rate of 7 percent annually, consistently outstripping the average growth rate for world GNP of 5 percent a year. Then OPEC instituted the first in its series of oil price increases. Growth in world trade began to falter as countries struggled to adjust to rapid price hikes in oil import bills. Every oil-importing country was adversely affected, and the non-oil producing developing countries were particularly hard hit. Their trade balances deteriorated dramatically, as the cost of essential oil imports continued to rise.

When inflation rates began climbing, more and more countries sought to borrow money to cover their trade deficits and finance imports necessary for continuing growth. This penchant to borrow made sense at the time, if for no other reason than real interest rates were negative. Countries could expect to repay loans with

cheaper currency, and many banking institutions, particularly the world's money center banks, were eager to loan them the money they sought.

But, starting in 1979, the inflationary bubble began to burst. Concerned that inflation rates were reaching runaway levels, the major industrialized countries finally realized they must take strong countermeasures and instituted disinflationary policies almost simultaneously. In so doing, they helped precipitate the current worldwide recession.

In the past three years, inflation rates have receded from double-digit levels and real interest rates have turned positive but, at the same time, there has been a devastating increase in the world's unemployment rate. In the major industrialized countries, the ranks of the unemployed have doubled from 16 million to 32 million people, and the level of unemployment in Third World countries has reached crippling proportions.

The recession has also had an enormous impact on the external debt burden of the non-oil producing less developed countries, or LDCs. Faced in 1979 with another OPEC price increase and no longer able to repay their loans with cheap currency, the oil-importing LDCs quickly amassed a crushing load of hard currency debt. From a level of $100 billion in 1972, the combined external debt of non-oil producing developing countries grew to more than $630 billion by the end of 1982.

The plight of the developing countries has been further worsened by weak demand and an abrupt drop in prices for the commodities they export. Since 1980, prices of non-oil raw materials have fallen an average of 35 percent in real terms—a staggering decline—and have reached their lowest levels in nearly 30 years.

With rising debt and sharply reduced means of generating foreign exchange, many developing countries have found themselves caught in a vicious circle. They can't export enough to earn the foreign exchange they need and they are having increasing difficulty securing new loans. Instead of getting additional credit from international banks to finance imports, they are being pressed to make payments on past debts—debts that can only be serviced by increasing net export revenues. With exports in a severe slump, many countries have little choice but to cut imports drastically.

The industrialized countries are far from immune from the impact of an economic downturn in the Third World. Over the past decade, the developing countries have been the fastest growing export market for the products of the developed world. In 1972, the United States sent just 25 percent of its exports to the non-oil producing LDCs. By 1982 the U.S., like Japan and the European Community, sent fully 40 percent of its exports to the developing countries—more than to any other single market.

INCREASED GOVERNMENT INTERVENTION

The convergence of all these forces—protracted recession, high unemployment, and burgeoning debt loads—is placing extraordinary strains on the international trading system. In this environment, governments have come under intense pressure to "do something," and many have reacted by moving to protect domestic industries and stem unemployment, whatever the cost.

Governments' inventiveness in curbing free trade—as the end-all solution to their problems—has seemed inexhaustible. Tariffs, the major protectionist device a generation ago, have now given way to non-tariff barriers in nearly every sector of international trade. Countries have erected a bewildering array of regulations on product safety standards, testing procedures, and licensing requirements. Free market access is limited by government procurement policies, monopoly trading groups, or local content laws.

Such import barriers have seriously distorted trade relationships and prevented the rational allocation of resources. Yet they continue to multiply. The GATT has estimated that nearly one-half of all trade is now subject to non-tariff barriers of one kind or another.

Free trade, the source of unprecedented prosperity since World War II, is now retreating before an onslaught of domestic pressure groups, swelled by the ranks of the more than 32 million unemployed. And the more traumatic unemployment becomes, the more national protectionism continues to spread.

While we worry about protectionism, we should understand that it is only one aspect of government intervention in international trade. The other side is the growing use of export subsidies. Many developed countries promote exports by granting tax rebates at their borders or providing export financing below market rates. According to a study last year by the U.S. General Accounting Office, the French, British, and Japanese consistently subsidize nearly one-third of their exports.

The French, for example, have heavily subsidized exports of their Airbus, enabling it to outcompete Boeing for sales of wide-bodied aircraft. A Canadian firm was able to win a New York subway contract last year solely on the basis of its government-subsidized financing package. Similarly, the Japanese have gained world leadership in the semiconductor industry through generous export subsidies, R&D funding, and other assistance, totalling an estimated $1.5 billion in the last five years.

The emerging pattern of trade relations is one I would call "managed trade," characterized by national industrial policies which protect sensitive industries from imports and target others for aggressive export growth. In addition, there have been a spate of bilateral agreements to restrain exports on a so-called "voluntary" basis and special multilateral understandings to divide up world market shares.

What we see is a world moving further and further away from a trading system based on open competition and rational economic decision-making, toward one based on artificial government controls and subsidies that can be erected or dismantled at will. Such a system fosters inefficiency, discourages productive foreign investment and, in the long run, stifles economic growth. It is a system that is inherently unpredictable and prone to political conflict.

Goverment intervention, once greatest in agriculture and basic industries, is now being extended to new, high-technology areas as well. For instance, the trade agreement signed this February between the European Economic Community (EEC) and Japan went far beyond the old geriatric wards of textiles, steel, shipbuilding, and automobiles. It exacted moderation by the Japanese on sales of such products as quartz watches and fork-lift trucks and imposed strict quotas on Japanese exports of video and television equipment. These restrictions are tantamount to infant industry protection for Europe's struggling companies.

Efforts to reverse this trend have thus far been fruitless. The much heralded GATT ministerial meeting last November failed to reach any meaningful consensus. While the ministers reaffirmed their commitment to free trade, they did not advance any concrete proposals to prevent the proliferation of trade barriers. If anything, we have seen them move more aggressively toward import quotas and subsidized export credits.

CONFLICTING INDUSTRIAL CULTURES

Government intervention, however rampant and regrettable, is only symptomatic of a much deeper problem. The underlying source of conflict is this: over the past three decades, the major trading nations of the world have developed profoundly different attitudes about the conduct of economic affairs. Until these fundamental differences are resolved, or at least muted, the impediments to international trade can only become more worrisome.

Industrial nations need a coherent new strategy, not merely stopgap tactics that fail to address underlying issues.

Let me elaborate.

At the end of World War II, there was a semblance of agreement of what should be done. The major industrialized countries were keenly aware of how narrow national policies and high tariff barriers had deepened the depression during the 1930's and contributed to the tensions that led to war. They were determined, if possible, to avoid past mistakes.

The international institutions created in the aftermath of the Second World War represented a coherent strategy appropriate to the times. Just as NATO was forged to address common political and security goals, the institutions established by the Bretton Woods Conference of 1944 were designed to achieve common and workable economic objectives. Specifically, the International Monetary Fund was created to promote sound monetary and exchange rate practices, the International Bank for Reconstruction and Development was established to restore the war-torn economies of Europe and Asia, and the General Agreement on Tariffs and Trade was drawn up to advance free international trade.

Although this early period was not without disagreement, the United States, as the preeminent military and economic power of the day, was able to exercise creative leadership. Individual national differences were submerged and reconciled in the interests of a workable global system. Especially in the area of trade, memories of the damage created by the mercantilist, protectionist policies of the 1930's were vivid. Eager to avoid the devastating impact of another world depression, nations advocated the concept of free and unfettered trade.

As the United States helped rebuild the economies of both our Allies and the former Axis powers, we assumed—somewhat naively—that they would develop industrial cultures in our image and be motivated by our own competitive market values. Instead, the European Community followed an interventionist path, while the Japanese developed an industrial culture markedly different from our own. It is precisely because of these cultural differences, and the political attitudes which underlie them, that our trading problems have become so difficult.

Let's look briefly at the record.

In Western Europe, governments have tended to place social and political goals above economic considerations in setting their industrial policies. As a consequence, their policies have typically involved heavy government subsidies to maintain employ-

ment and preserve traditional industries regardless of efficiency or competitiveness.

In Japan, ministry officials have carefully controlled domestic investment and selectively targeted industry development, focusing on those industries capable of developing substantial export potential and becoming truly world-class competitors. To ensure rapid and cost-effective penetration of world markets, they have created substantial tax advantages, established attractive financing for new plant and equipment, and encouraged cooperative intra-industry agreements. By manipulating domestic capital markets, they have artificially depressed the value of the yen, further boosting Japanese export sales and suppressing imports. This carefully managed economy aggressively promotes Japan's infant industries and maximizes its global trade advantage.

In much of the Third World, counties have become profoundly disillusioned with our notions of free market development. They have learned, all too painfully, that large infusions of foreign captial cannot compensate for a shortage of skilled human resources. Once oil prices started rising and debt loads mounted, it is not surprising that many developing countries erected trade barriers, established investment controls and imposed performance requirements in an attempt to bolster their industries against outside competition.

The inherent dilemma we face is this: although the United States continues to believe that a free system will benefit all nations, many other countries see only the adverse political and social repercussions of opening their borders to external compensation. There is no longer a consensus that free trade works to everyone's advantage.

WHAT SHOULD BE DONE

The existing order, if it can be called that, will no longer suffice. The industrial nations need a fundamental change in their strategic thinking. It is not specific trade barriers or even specific industrial policies that are the issue—it is the very structure of the international trading system itself.

What we need is the political will to rethink our existing economic rules and, where necessary, restructure our major international institutions. We need to examine all factors that have a bearing on international trade—import barriers, export subsidies, exchange rates, and capital flows. We need a new international charter, one that restores a sense of parity and reinstills a spirit of cooperation.

The task will not be easy. Governments are loathe to relinquish any control over domestic economic policies or forfeit what they see as their prerogatives to nuture and promote their export potential. But if governments continue on their present collision course, we run a serious risk of precipitating a prolonged, global depression that could be just as devastating as the Great Depression of the 1930's.

We may need another conference on the order of Bretton Woods—a conference of the same breadth, depth and stature—to sort out differences, harmonize conflicting interests and create an international trading system that recognizes the needs of the 1980's and the decades ahead. That system will have to compromise between the oft-invoked ideal of "free trade" and today's political inclination toward managed trade. Whatever balance we strike, an enduring system must be one that accommodates legitimate national interests and, at the same time, ensures rational and predictable trading rules—a system that allows commercial competition within an overall framework of political cooperation.

The task of forging a new international trading system is vitally important. It will require the creativity of the best minds in our major educational institutions, the contributions of prominent think tanks in this and other countries, the flexibility of governments and, above all, their steadfast commitment. Our trade problems can be surmounted if we have the will to tackle them with both imagination and foresight—qualities that are sorely lacking around the negotiating tables of the world today.

We cannot afford to be complacent. Success or failure in this effort will determine whether the remainder of this century is a period of expanding trade and economic prosperity or one of diminished trade, economic stagnation, and mounting conflict.

STATEMENT OF ROBERT H. MALOTT

Mr. Chairman and members of the committee, I am Rober H. Malott, chairman and chief executive officer of FMC Corporation, a multinational producer of machinery and chemicals for industry, agriculture, and Government. Our sales in 1982 were $3.5 billion. FMC ranks as the 31st largest exporter from the United States, does business in more than 100 countries, and derives more than one-third of its revenue from international sources.

From my perspective as head of a multinational enterprise with a major stake in international trade, I strongly favor the administration's proposal—as embodied in Senator ROTH's revised bill S. 121—to establish a new Department of International Trade and Industry. In my view, we need a new trade organization in this country for three reasons:

First, international trade has become a critical element in the United States economy—critical to our GNP and GNP growth and critical in creating jobs and spurring the development of new technologies.

Second, the United States is facing increasing protectionism and aggressive, organized competition from its major trading partners.

Third, U.S. trade policy remains incoherent and ineffective and the mechanisms for implementing whatever policy we have are diffuse and fragmented. The United States is the only major industrial power which does not have a cabinet or ministerial level department with focused responsibility for developing trade strategy and the coordinating responsibility to ensure that strategy is implemented.

Let me elaborate on these points.

First, there's no doubt that international trade has become an important part of the U.S. economy. Ten years ago, we exported only about 5 percent of our industrial production. Today, we export more than 20 percent of our industrial output and 40 percent of our agricultural produce. Trade in goods and services now accounts for over 20 percent of the U.S. gross national product.

Not surprisingly, exports have also become a major source of new jobs. The Commerce Department estimates that every billion dollars' worth of exports creates at least 25,000 new jobs. In the past five years, more than 80 percent of the new jobs created in manufacturing—a total of nearly five million—originated in the export sector.

Second, international trade has become vastly more competitive than it was ten years ago. Protectionism has been rising through the mechanism of non-tariff barriers, which continue to replace tariffs as the major impediment to world trade. According to officials of the general agreement on tariffs and trade, almost one-half of all trade is now subject to non-tariff barriers of one kind or another.

At the same time, our competitors are aggressively supporting their export industries with a wide array of subsidies in a systematic effort to increase their penetration of U.S. and foreign markets. A study last year by the U.S. General Accounting Office indicates that the French, British, and Japanese consistently subsidize nearly one-third of their exports. In addition, it is becoming apparent that the currencies of some countries have been kept at artificially low levels as a means to further boost export sales and suppress imports.

All these trends are seriously eroding the ability of American business to compete effectively in world markets. At present, we do not have a clearly defined trade policy to combat these challenges nor, in my opinion, an organization capable of addressing these issues effectively.

There are really two dimensions to our organizational problem. First, the trade policy function at the office of the U.S. Trade Representatives is separated from those trade-related functions at the Department of Commerce that work most closely with American Industry in implementing that policy. Secondly, there has been a proliferation of Government agencies that have an involvement in—and indeed a legitimate interest in—trade and economic affairs. These agencies have diverse and often conflicting points of view which often take a long time to resolve and obstruct the timely development and implementation of policy.

As I understand it, the administration's proposal would deal with both of these issues. It would deal with the first by integrating the trade policy function of USTR with the industry-related research, analysis, and export promotion functions of the Commerce Department, including the International Trade Administration and the Office of the Under Secretary of Commerce for Economic Affairs. It would deal with the second by establishing a strong statutory Cabinet Council in the White House backed by a small capable staff. The President himself would be designated to chair the Council, while the proposed Secretary of International Trade would serve as chairman pro tempore and the Secretary of Agriculture would serve as vice chairman. The Council would be analogous to the National Security Council and would be the principal interagency forum for advising the President on trade and resolving trade issues between departments at the Cabinet level.

The proposed reorganization would thereby create not only a logical management structure to research and evaluate different policy alternatives but also a Cabinet-level council to resolve interdepartmental trade disputes in an orderly, efficient manner.

The proposed trade reorganization would appear to have at least two advantages over the current system:

First, if properly implemented, the reorganization should enable us to develop a strategic approach to our pressing international trade problems, which include not only protectionism and export subsidies, but also a growing disrespect for industrial property rights around the world and the spread of cartel agreements to protect world market share. These are challenges which we have thus far failed to meet and which are becoming increasingly severe.

The proposed Trade Department could help combat these challenges by giving our trade representatives timely, reliable evidence on trade barriers in major overseas markets. This information would help us respond more quickly to emerging problems, allow us to take greater initiative in developing new trade agreements and, more importantly, permit us to monitor more effectively whether our trading partners are abiding by international trade commitments. It is my judgment that the new Department would enable us to initiate strategy rather than merely react to events.

Second, the new Department of International Trade and Industry should be leaner and more efficient in administering trade policy. Only 20 percent of the present Commerce Department would be included in the new organization—or approximately 7,500 people—making it the second smallest cabinet department in the U.S. Government.

Admittedly, the proposed trade reorganization will not, in and of itself, solve all our problems. But it will put us in a much better position to develop clear, responsible trade policies and implement them effectively. And I believe it can help us avoid some of the mistakes we've made in the past—the soybean embargo in 1974 and the restrictions on grain sales to the Soviet Union, to name but two—actions which have seriously damaged our credibility as a reliable supplier and undercut our position in world markets.

Reorganizing the trade structure within the U.S. Government will inevitably cause disruption and it will take time to implement. And I understand it may cause some jurisdictional questions in Congress concerning oversight responsibility for those agencies that are to be incorporated in the Department of International Trade and Industry or spun off to other agencies. Despite such jurisdictional problems, I seriously doubt that we can afford the luxury of procrastination.

World trade, which has made a major contribution to the unprecedented prosperity we have enjoyed since World War II, is falling victim to economic chauvinism and recession. Between 1950 and 1980, world trade grew at a real, average annual rate of 6.7 percent—far outstripping the average annual growth of real world GNP. In the last two years, however, trade first stagnated and then declined.

This decline must be reversed. If it is not, we could see the fragile economic recovery in the United States and in the other industrialized countries come to an abrupt halt.

To revive trade as an engine of growth—to stimulate new industry, new technology, and new jobs—I believe the United States must again exercise decisive leadership, just as it did at the end of World War II. I think the new trade organization is absolutely mandatory if we are to resume this role, and I strongly urge the passage of S. 121 to establish the new department.

Before I conclude, Mr. Chairman, let me parenthetically commend you for your leadership on this issue. I know you have been an advocate of trade reorganization for almost 10 years and I think your persistence is to be admired.

Thank you for giving me the opportunity to testify on what I consider a critical issue.

I would be pleased to respond to any questions.

IMPLEMENTATION OF RECOMMENDATIONS OF WORLD ASSEMBLY ON AGING

Mr. PERCY. Mr. President, I am pleased to join Senator HEINZ in submitting a resolution to express the sense of the Congress that the recommendations adopted in August 1982 by the U.N. World Assembly on Aging in the Vienna International Plan of Action on Aging be implemented.

My interest in the elderly is longstanding. I have had the pleasure of serving on the Senate Special Committee on Aging since 1971. I treasure my seat on this committee not only because it gives me the opportunity to focus on the special problems and needs of older persons today, but because the committee is at the vanguard in working for public policies that will reflect the graying of America.

The aging population not only in our own country but throughout the world has already begun to cause significant and sometimes startling social and economic changes requiring immediate and long-term attention and action. A combination of factors witnessed in the 20th century, including a decline in infant mortality, improvements in nutrition, and advancements in health care, has resulted in an ever-increasing number of persons surviving into advanced stages of life.

While in 1950, according to U.N. estimates, there were approximately 200 million persons 60 years of age and over throughout the world, that figure had increased to 350 million by 1975. It is projected that this number will increase to 590 million in the year 2000 and to more than 1,100 million by 2025—an increase of 224 percent since 1975. During this same period, the world's population as a whole is expected to increase by 102 percent, from 4.1 billion to 8.2 billion. Thus, 40 years from now, the elderly will constitute 13.7 percent of the world's population.

This demographic trend will have a significant effect on society. Although the elderly share many problems and needs with the rest of the population, certain issues reflect the special characteristics and requirements of this group. These issues are health and nutrition, housing and environment, the family, social welfare, income security and employment, and education.

Because of these concerns, I was an original cosponsor of legislation passed in 1977 calling for a World Assembly on Aging to study these issues and their impact. As a result of this U.N. World Assembly, which was held last summer, a plan of action on aging was adopted without a single reservation from any of the 121 countries represented. The Plan of Action contains 62 recommendations, primarily for national action but also for regional and international action, and is generally applicable to both developed and developing countries. It is the implementation of this plan which our resolution encourages.

The recommendations call for, among other things, increased involvement of the aged in setting policies and programs for the elderly population, an emphasis on health care maintenance and preventive measures, alternative care for the mentally and terminally ill, coordination of social welfare and health care services, improvements in nutritional services, national housing policies to help the aged to live in their own homes as long as possible, attention to designing a living environment to take into account the functional capacity of the elderly and facilitate mobility and communication, insuring income security as well as the right to work and the right to retire, and developing data on the older section of the population to assist in the formation, application, and evaluation of policies and programs for the elderly. The exchange of information and experience at the international level will stimulate progress and encourage the adoption of measures to meet the needs of older persons as well as responding to the economic and social implications of the aging population.

I believe that the United States should join other nations around the world in the implementation of these recommendations as a culmination of the 1982 U.N. World Assembly on Aging conference and year-long program of activities. I commend Senator HEINZ, the distinguished chairman of the Aging Committee, for his leadership in this area and I urge my colleagues to join us in cosponsoring this important resolution.

DAVE BRODY: AN EXEMPLARY LOBBYIST

Mr. PERCY. Mr. President, when first elected to the Senate I was told by new friends in Washington that I would soon tire of the demanding attitudes of the lobbyists arguing a wide variety of interests and causes. I did not know then that one of the first lobbyists I would meet would be David Brody, Washington representative of B'nai B'rith's Anti-Defamation League. Dave Brody, I found, was a prominent attorney, a specialist on Congress, and particularly on the Senate, a man who did his best to master every issue, foreign and domestic, a lobbyist understanding of the myriad pressures on legislators. In pursuing his work he sought to develop a personal relationship with every Senator. Dave Brody is an exemplary lobbyist in the best sense of that term.

No doubt he is aided by the respect Senators have for his organization, the Anti-Defamation League, an effective

force for progressive legislation in the fields of civil liberties and civil rights and an organization which works to encourage good relations between the United States and Israel. But the Anti-Defamation League also benefits from the respect which Dave Brody himself engenders on the Hill.

Martin Tolchin's article about Dave Brody in the New York Times of May 26, 1983, under the headline "An 'Unelected Member' of the Senate" is worthy of the attention of my colleagues, and I ask unanimous consent that it be reprinted at this point.

There being no obligation, the article was ordered to be printed in the RECORD, as follows:

AN "UNELECTED MEMBER" OF THE SENATE

(By Martin Tolchin)

WASHINGTON, May 25.—"Senators Only" said the sign in front of the Capitol subway, but David Brody was waved aboard by Senator Charles E. Grassley, Republican of Iowa, whom be thanked for signing a resolution opposing the sale of advanced weaponry to Jordan.

"Senators Only" said the sign above the elevators in the Capitol, but Mr. Brody was escorted onto the car by Senator Jesse Helms, Republican of North Carolina State's N.C.A.A. basketball championship.

"Dave Brody is the unelected member of the U.S. Senate," said Senator Charles McC. Mathias, Jr., Republican of Maryland, who is an old friend.

Mr. Brody, who will be 67 years old next month, is a short, kinetic institution who seems to know just about everyone in Government. He is the Washington representative of B'nai B'rith's Anti-Defamation League, and, like those of many other lobbyists, his office walls are lined with signed photographs of Presidents and other White House notables. "What would we do without friends?" wrote Vice President Bush, and James A. Baker 3d, the White House chief of staff, called Mr. Brody "oftentimes a strong ally, occasionally a worthy adversary, but always a friend."

It is the Senate, however, where Mr. Brody presses his campaigns, which focus on aid to Israel and support of civil rights legislation. Some other lobbyists for Jewish organizations consider him a loner because of his failure to coordinate his activities with them, and some Capitol Hill people regard him as overly persistent. But most consider him effective.

STRATEGY ON AID TO ISRAEL

"Dave Brody can get in and out of more senators' offices quicker than any person I have ever met in my life," said former Vice President Walter F. Mondale.

Mr. Brody's present concerns include the foreign aid authorization bill, which contains an increase in aid to Israel, and legislation that would put teeth into a fair housing bill. On aid to Israel, Mr. Brody tells senators, "You can't win over the Arabs by weakening Israel. If Israel receives the aid it needs, it's in a better position to compromise; a weakened Israel cannot." On the fair housing bill he tells them, "Without effective enforcement, the bill doesn't mean very much."

Mr. Brody is a full-service lobbyist. He introduces senators to constituents, fund-raisers, reporters and "people I think they should meet." He gives personal advice. He suggests positions on a wide range of subjects, including those in which his organization is disinterested.

"I don't come around only when I need something," Mr. Brody said. "I come around to chat on a general exchange of views. I don't have a heavyhanded, demanding style."

OF FRIENDS AND AWACS

"He's given me valuable advice," said Senator Howell Heflin, an Alabama Democrat. "He has a broad range of interests."

Mr. Brody doesn't seem to care if a senator is a Democrat or Republican, liberal or conservative. Some of his closest friends in the Senate voted for the sale of Awacs to the Saudis, which Mr. Brody lobbied hard, and unsuccessfully, to defeat. "Somebody can be against you on one issue, and with you on the next," he said.

His manner can be direct. When Senator Lloyd Bentsen, the Texas Democrat, told him that Israel needed another Golda Meir, Mr. Brody replied, "Senator, if you have the power to resurrect Golda Meir, that's fine with me, but Golda Meir also had problems with our government."

Mr. Brody does considerable entertaining at home, often bringing senators together with the Israeli Ambassador. Rolf Pauls, former German Ambassador to Washington, once quipped that he had seen more senators at Mr. Brody's home than on the Senate floor.

Mr. Brody, a native New Yorker who is a graduate of City College and Columbia Law School, came to Washington in 1940 to work for the Department of Agriculture, and joined the league in 1949. He was promoted to chief Washington representative in 1965.

His style has evolved over the decades. "Maybe I am a loner," he said. "I have my own style. You have to be able to relate to people, even when you find yourself in disagreement. You have to deal with members as individuals, and know what their concerns are. I'd have a very narrow range of friends if we had to agree on every issue."

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

FAIR HOUSING AMENDMENTS ACT OF 1983—MESSAGE FROM THE PRESIDENT—PM 67

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with accompanying papers; which was referred to the Committee on the Judiciary:

To the Congress of the United States:

I am transmitting herewith the "Fair Housing Amendments Act of 1983."

The Federal Fair Housing Act was enacted by the Congress 15 years ago. It stands as a bold promise that no person in the United States should be denied full freedom of choice in the selection of housing because of race, color, religion, sex, or national origin. Since its passage, however, a consensus has developed that the Fair Housing Act has delivered short of its promise because of a gap in its enforcement mechanism.

The principal means of redressing violations under the Act is resolution of complaints by the Secretary of Housing and Urban Development through informal methods of conference, conciliation, or persuasion. This informal process is the best and most effective procedure that can be devised for speedy and non-burdensome relief for individual victims of discrimination. It has worked well when it has been approached in good faith by all parties to the dispute. The Secretary achieves conciliation in roughly three-fourths of the cases in which a determination to resolve through conciliation is made, and the success rate of conciliation by State and local agencies to which complaints are referred is comparable. But as few as the cases may be where conciliation is unsuccessful, they are too many.

The gap in enforcement is the lack of a forceful back-up mechanism which provides an incentive to bring the parties to the conciliation table with serious intent to resolve the dispute then and there. When conciliation fails, the Secretary has no place else to go. In those few cases where good will is absent, the exclusive reliance upon voluntary resolution is, in the words of former Secretary Carla Hills, an "invitation to intransigence."

I referred to this widely acknowledged gap in the law in my recent State of the Union message when I said:

Effective enforcement of our Nation's fair housing laws is . . . essential to ensuring equal opportunity. In the year ahead, we will work to strengthen enforcement of fair housing laws for all Americans.

The central objective of the proposed legislation which I am transmitting today is to supply the missing ingredient to effective enforcement. I propose that when conciliation fails, the Secretary may refer the complaint to the Attorney General with the recommendation that an action be commenced on behalf of the United States in Federal District Court. This expands the current jurisdiction of the Justice Department, now limited to cases of discriminatory patterns or practices, to include cases involving individual victims of discrimination. It thus places the leadership in enforcement where it belongs, with the Federal Government rather than with the individual victim. And in order to emphasize the clear public interest in the prevention of discriminatory housing practices as well as to add teeth to the enforcement arsenal, it authorizes the Attorney General to seek substantial civil penalties in addition to equitable relief. While the maximum penalties are severe—as they ought to be in

cases of violation of the basic right to be free from illegal discrimination—the tribunal with power to impose these remedies is that one which has earned and enjoyed the confidence of the American people over our history for its impartiality, independence, and fairness.

I also propose several other important improvements to the enforcement process, including:

—Authorization for the Attorney General to seek specific performance of a conciliation agreement.
—Confirmation that a conciliation may contain an agreement to submit to binding arbitration.
—Authorization of temporary equitable relief through the courts while conciliation attempts are proceeding.
—Conforming the attorneys' fee award provisions to those of the Civil Rights Attorneys Fee Award Act.
—Extension of the statute of limitations for private actions from 180 days to two years.
—Removal of the ceiling on punitive damages obtainable in private enforcement actions.

The proposed legislation also will extend coverage of the Fair Housing Act to prohibit discrimination on the basis of handicap. The need to extend the protection of this statute to the handicapped is a subject on which a clear consensus of the Congress emerged during the unsuccessful attempt to adopt amendments in the 96th Congress.

Reform of the Fair Housing Act is a necessity that is acknowledged by all. I urge that the Congress give these legislative proposals its immediate attention so that early enactment may be achieved.

RONALD REAGAN.

THE WHITE HOUSE, *July 12, 1983.*

MESSAGES FROM THE HOUSE

ENROLLED JOINT RESOLUTIONS SIGNED

At 2:13 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 18. Joint resolution designating September 22, 1983, as "American Business Women's Day";

S.J. Res. 34. Joint resolution designating "National Reyes Syndrome Week"; and

S.J. Res. 68. Joint resolution to authorize and request the President to designate July 16, 1983, as "National Atomic Veterans' Day."

The enrolled joint resolutions were subsequently signed by the President pro tempore (Mr. THURMOND).

At 5:27 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its clerks, announcing that the House has passed the following bill, without amendment:

S. 929. A bill to amend the Act of July 2, 1940, as amended, pertaining to appropriations for the Canal Zone Biological Area.

ENROLLED JOINT RESOLUTION SIGNED

The following enrolled joint resolution, which had been signed by the Speaker of the House of Representatives on June 29, 1983, was signed on today, July 12, 1983, by the Vice President:

S.J. Res. 96. Joint resolution to designate August 1, 1983, as "Helsinki Human Rights Day."

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary reported that on today, July 12, 1983, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 18. Joint resolution designating September 22, 1983, as "American Business Women's Day";

S.J. Res. 34. Joint resolution designating "National Reyes Syndrome Week"; and

S.J. Res. 68. Joint resolution to authorize and request the President to designate July 16, 1983, as "National Atomic Veterans' Day."

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1381. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the seventh annual report on the child support enforcement program; to the Committee on Finance.

EC-1382. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "U.S. Assistance to the State of Israel"; to the Committee on Foreign Relations.

EC-1383. A communication from the Acting Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to June 28, 1983; to the Committee on Foreign Relations.

EC-1384. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting a draft of proposed legislation to implement the Inter-American Convention on International Commercial Arbitration; to the Committee on Foreign Relations.

EC-1385. A communication from the Acting Secretary of State, transmitting, pursuant to law, the 31st report on the extent and disposition of U.S. contributions to international organizations covering fiscal year 1982; to the Committee on Foreign Relations.

EC-1386. A communication from the Assistant Legal Advisor for Treaty Affairs, Department of State, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to June 24, 1983; to the Committee on Foreign Relations.

EC-1387. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Action Needed To Reduce, Account For, and Collect Overpayments to Federal Retirees"; to the Committee on Governmental Affairs.

EC-1388. A communication from the Acting Executive Director of the Commodity Futures Trading Commission, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1389. A communication from the Assistant Secretary of the Treasury (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1390. A communication from the Acting Secretary of the Navy, transmitting a draft of proposed legislation to amend section 7227, title 10, United States Code, to provide for the furnishing of routine port services at no cost to visiting naval vessels of a friendly foreign country, when by agreement or custom such services are provided reciprocally to visiting naval vessels of the United States; to the Committee on Armed Services.

EC-1391. A communication from the consultants to the Sacramento Farm Credit Employee's retirement plan, transmitting, pursuant to law, the annual pension report of the plan for calendar year 1982; to the Committee on Governmental Affairs.

EC-1392. A communication from the District of Columbia Auditor, transmitting, pursuant to law, a report entitled "Review of Medical Officers Pay in the Department of Human Services and the D.C. General Hospital"; to the Committee on Governmental Affairs.

EC-1393. A communication from the Administrator of the Health Care Financing Administration, Department of Health and Human Services, transmitting, pursuant to law, a report on a new Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1394. A communication from the General Counsel of the Federal Labor Relations Authority, transmitting a draft of proposed legislation to amend chapter 71 of title 5, United States Code, to provide for the operational continuity of the Office of the General Counsel of the Federal Labor Relations Authority during a vacancy in the position of General Counsel; to the Committee on Governmental Affairs.

EC-1395. A communication from the Assistant Attorney General (Administration), transmitting, pursuant to law, a report on a new Privacy Act system of records in the Department of Justice; to the Committee on Governmental Affairs.

EC-1396. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on the suspension of deportation of a certain alien under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-1397. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, a report on

the suspension of deportation of a certain alien under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-1398. A communication from the Attorney General of the United States, transmitting, pursuant to law, notice that the Department of Justice has determined not to appeal the decision in *Cimaglia* v. *Schweiker* declaring a portion of the Social Security Act unconstitutional; to the Committee on the Judiciary.

EC-1399. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending the deportation of certain aliens under section 244(a)(1) of the Immigration and Nationality Act; to the Committee on the Judiciary.

EC-1400. A communication from the Assistant Attorney General transmitting, pursuant to law, the Department of Justice Freedom of Information report for 1982; to the Committee on the Judiciary.

EC-1401. A communication from the Director of the National Legislative Commission of the American Legion transmitting, pursuant to law, a report on the financial condition of the American Legion as of December 31, 1983; to the Committee on the Judiciary.

EC-1402. A communication from the Secretary of the Treasury transmitting, pursuant to law, a report on the financial position and operating results of the Student Loan Marketing Association; to the Committee on Labor and Human Resources.

EC-1403. A communication from the Secretary of Health and Human Services transmitting a draft of proposed legislation to amend the "Older Americans Act of 1965"; to the Committee on Labor and Human Resources.

EC-1404. A communication from the Secretary of Education transmitting, pursuant to law, an application notice for the Secretary's discretionary program grants and rules for conducting a grant competition; to the Committee on Labor and Human Resources.

EC-1405. A communication from the chairman of the board of the Student Loan Marketing Association transmitting, pursuant to law, a report on the corporation's operations and activities for the year ended December 31, 1982; to the Committee on Labor and Human Resources.

EC-1406. A communication from the Secretary of Education transmitting, pursuant to law, a report on the status of vocational education in fiscal year 1982; to the Committee on Labor and Human Resources.

EC-1407. A communication from the Executive Director of the Committee for Purchase From the Blind and other Handicapped transmitting, pursuant to law, the annual report on the activities of the committee for fiscal year 1982; to the Committee on Labor and Human Resources.

EC-1408. A communication from the Chairman of the National Labor Relations Board transmitting, pursuant to law, the 46th annual report of the Board; to the Committee on Labor and Human Resources.

EC-1409. A communication from the Chairman of the Federal Election Commission, transmitting, pursuant to law, proposed regulations pertaining to the administration of the Presidential Election Campaign Fund Act; to the Committee on Rules and Administration.

EC-1410. A communication from the Executive Secretary, Department of Defense, transmitting, pursuant to law, a report on Department of Defense procurement from small and other business firms for October 1982 to March 1983; to the Committee on Small Business.

EC-1411. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to modify and improve the educational assistance programs administered by the Veterans' Administration, and for other purposes; to the Committee on Veterans' Affairs.

EC-1412. A communication from the Administrator of Veterans' Affairs, transmitting a draft of proposed legislation to amend title 38, United States Code, to expand the scope of the membership of the special medical advisory group; to the Committee on Veterans' Affairs.

EC-1413. A communication from the Director of the Selective Service System, transmitting, pursuant to law, the report on the System for the period October 1, 1982 through March 31, 1983; to the Committee on Armed Services.

EC-1414. A communication from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize depository institution holding companies to engage in activities of a financial nature, insurance underwriting and brokerage, real estate development and brokerage, and certain securities activities including dealing in, underwriting and purchasing government and municipal securities, sponsoring and managing investment companies and underwriting the securities thereof, to provide for the safe and sound operation of depository institutions, to amend the Federal Reserve Act, the Home Owners' Loan Act of 1933, and the Bank Service Corporation Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

EC-1415. A communication from the General Counsel of the Department of Energy, transmitting, pursuant to law, notice of the cancellation of meetings related to the international energy program; to the Committee on Energy and Natural Resources.

EC-1416. A communication from the Acting Secretary of the Interior, transmitting, pursuant to law, notice on leasing systems for offshore oil scheduled to be held on August 24, 1983; to the Committee on Energy and Natural Resources.

EC-1417. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled "Performance Profiles of Major Energy Producers, 1981"; to the Committee on Energy and Natural Resources.

EC-1418. A communication from the Secretary of Transportation, transmitting, pursuant to law, a report entitled "The Status of the Nation's Highways: Conditions and Performance"; to the Committee on Environment and Public Works.

EC-1419. A communication from the Bureau of Data Management and Strategy, Health Care Financing Administration, transmitting, pursuant to law, a summary of the 1983 annual reports of the Medicare Board of Trustees; to the Committee on Finance.

EC-1420. A communication from the Assistant Legal Advisor for Treaty Affairs, transmitting, pursuant to law, a report on international agreements, other than treaties, entered into by the United States in the 60-day period prior to July 8, 1983; to the Committee on Foreign Relations.

EC-1421. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-50, adopted by the Council on June 21, 1983; to the Committee on Governmental Affairs.

EC-1422. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-47, adopted by the Council on June 21, 1983; to the Committee on Governmental Affairs.

EC-1423. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-48, adopted by the Council on June 21, 1983; to the Committee on Governmental Affairs.

EC-1424. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-48, adopted by the Council on June 21, 1983; to the Committee on Governmental Affairs.

EC-1425. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 5-46, adopted by the Council on June 21, 1983; to the Committee on Governmental Affairs.

EC-1426. A communication from the Office of Federal Supply and Services, Office of Transportation, transmitting, pursuant to law, the Federal motor vehicle fleet report for fiscal year 1982; to the Committee on Governmental Affairs.

EC-1427. A communication from the Counsel of the National Council on Radiation Protection and Measurement, transmitting, pursuant to law, the financial statements and schedules of the Council for calendar year 1982; to the Committee on the Judiciary.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-286. A resolution adopted by the City Council of Bloomington, Minnesota, urging Congress to re-examine the nuclear weapons policy of the United States; to the Committee on Armed Services.

POM-287. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Banking, Housing, and Urban Affairs:

"RESOLUTION

"Whereas, high interest rates have placed a heavy burden on low and moderate income families attempting to finance mortgages and home improvement loans; and

"Whereas, the elimination of direct Federal assistance for housing production has placed an increased burden on the States to provide these services; and

"Whereas, the State of Minnesota, through the Minnesota Housing Finance Agency, has developed effective programs to assist low and moderate income families to purchase and rehabilitate housing; and

"Whereas, the ability of the State of Minnesota to continue to provide housing assistance will be greatly inhibited without the availability of Federal tax-exempt financing: Now, therefore, be it

Resolved by the Legislature of the State of Minnesota, That Congress should speedily enact legislation to authorize the issuance of qualified mortgage bonds beyond the current expiration date of December 31, 1983; be it further

Resolved, That the Secretary of State of the State of Minnesota is directed to trans-

mit certified copies of this memorial to the President of the United States, the President and the Secretary of the United States Senate, the Speaker and the Chief Clerk of the United States House of Representatives, and to Minnesota's Senators and Representatives in Congress."

POM-288. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Banking Housing, and Urban Affairs.

"RESOLUTION

"Whereas, high interest rates have placed a heavy burden on low and moderate income families attempting to finance mortgages and home improvement loans; and

"Whereas, the elimination of direct Federal assistance for housing production has placed an increased burden on the States to provide these services; and

"Whereas, the State of Minnesota, through the Minnesota Housing Finance Agency, has developed effective programs to assist low and moderate income families to purchase and rehabilitate housing; and

"Whereas, the ability of the State of Minnesota to continue to provide housing assistance will be greatly inhibited without the availability of Federal tax-exempt financing; Now, therefore, be it

"Resolved by the Legislature of the State of Minnesota, That Congress should speedily enact legislation to authorize the issuance of qualified mortgage bonds beyond the current expiration date of December 31, 1983; be it further

"Resolved that the Secretary of State of the State of Minnesota is directed to transmit certified copies of this memorial to the President of the United States, the President and the Secretary of the United States Senate, the Speaker and the Chief Clerk of the United States House of Representatives, and to Minnesota's Senators and Representatives in Congress."

POM-289. A resolution adopted by the City Council of Homestead, Florida expressing that the needs of Homestead be met using only those supplies, materials and equipment manufactured in the United States of America where same are available and consistent with the bidding requirements of the code of Homestead and urging other city governments and all governmental units of the county, state and federal levels to follow a similar procurement policy for their needed supplies, material and equipment; to the Committee on Commerce, Science, and Transportation.

POM-290. A resolution adopted by the Assembly of the State of New York; to the Committee on Commerce, Science, and Transportation:

"LEGISLATIVE RESOLUTION—ASSEMBLY NO. 992

"Whereas, Lake Erie and its tributaries have provided a very important form of commercial and recreational fishing for the residents of western New York; and

"Whereas, For some time now, it has been documented that the sea lamprey has presented a serious threat to the fish population of Lake Erie; and

"Whereas, Because sea lampreys have no natural controls, they can ruin the stocking programs in the Great Lakes, by causing irreparable harm to game fish, Lake Trout, Walleye and other Salmonoids; and

"Whereas, New York State has undertaken a program of increased stocking of Lake, Brown and Rainbow Trout as well as Coho, Chinook, and Atlantic Salmon; and

"Whereas, The fishing industry annually realizes hundreds of thousands of dollars of revenues in Western New York through the tourism industries; and

"Whereas, Due to financial restrictions, the scheduled sea lamprey larval surveys were postponed for Lake Erie; and

"Whereas, If monies for treatment, assessment and construction of barriers of the sea lamprey in Lake Erie are not provided, the local fishing industry in Lake Erie will be in serious jeopardy; now, therefore, be it

"Resolved, That this Legislative Body hereby requests the United States Congress, The Great Lakes Fishery Commission and the United States Fish and Wildlife Service to provide the necessary funding to the International Joint Commission for the control of the sea lamprey situation in Lake Erie; and be it further

"Resolved, That this Legislative Body hereby requests the commissioner of the Department of Environmental Conservation to provide the leadership necessary to control this problem in Lake Erie waters; and be it further

"Resolved, That a copy of this Resolution, suitably engrossed, be transmitted to United States Congressional and Senatorial representatives, the United States and Canadian Fishery Commission and the Department of Environmental Conservation."

POM-291. A concurrent resolution adopted by the Legislature of the State of California; to the Committee on Commerce, Science, and Transportation:

"ASSEMBLY CONCURRENT RESOLUTION NO. 18

"Whereas Greyhound Bus Lines, the largest operator of common carrier buses in this state, has announced its intention to discontinue service to many of California's smaller and more isolated communities; and

"Whereas, For many persons in these remote areas who are unable or cannot afford to drive automobiles, the Greyhound bus has been their only means of access to outside areas; and

"Whereas, In previous applications to the Public Utilities Commission for authorization to abandon or reschedule service, 82 small cities and rural communities along California's major north-south highways would have been without service if the company's requests had been approved; and

"Whereas, These proposed schedule changes will, if implemented, present a grim and intolerable situation for people in small communities and rural and isolated areas who would suffer massive losses of service throughout California if these cutbacks are approved; now, therefore, be it

"Resolved by the Assembly of the State of California, the Senate thereof concurring, That the Legislature of the State of California requests the Public Utilities Commission, and respectfully memorializes the Interstate Commerce Commission, to disapprove any application by Greyhound Bus Lines to discontinue or reduce, or both, service to small, rural, and isolated communities within California; and be it further

"Resolved, That the Public Utilities Commission utilize the full 120-day review period, and that the Interstate Commerce Commission is respectfully memorialized to defer any subsequent decision for the full applicable review period, as specified in Sections 16 and 17 of the Federal Bus Regulatory Reform Act of 1982 (P.L. 97-261) to thoroughly review the Greyhound Bus Lines applications and thus allow pending bills and resolutions regarding intercity bus transportation to be considered by the Legislature; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Public Utilities Commission, to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the chairman and members of the Interstate Commerce Commission, and to each Senator and Representative from California in the Congress of the United States."

POM-292. A resolution adopted by the Assembly of the State of New York; to the Committee on Environment and Public Works:

"LEGISLATIVE RESOLUTION SENATE NO. 825—ASSEMBLY NO. 895

"Whereas, The Great Lakes Environmental Research Laboratory at Ann Arbor, Michigan, and the Grosse Isle Large Lakes Research Station near Detroit, Michigan, provide invaluable research and data relative to the enormous freshwater resource of the Great Lakes; and

"Whereas, The research and data are essential to the continuing effort of New York State and the other states and provinces in the Great Lakes Basin to preserve and protect the water resources of the Great Lakes; and

"Whereas, The work done at and through the Great Lakes Research Laboratory and the Large Lakes Research Station includes study and analysis of lake levels, effects of potential diversions of water, existing and potential power generation, the shipping industry, effects of toxic substances, circulatory patterns and other endeavors essential to the future vitality and quality of the Great Lakes; and

"Whereas, This work is of great importance to New York State, and much of the research and analysis is done in New York State and on Lake Erie and Lake Ontario; and

"Whereas, Approximately eighty percent of the funding of the Large Lakes Research Station has supported or currently supports other Great Lakes research institutions and scientists including SUNY/Buffalo, SUNY/Albany and the New York State Department of Health; and

"Whereas, The future of New York State and our continuing efforts to build a strong and enduring economic base are inexorably tied to the protection and preservation of the Great Lakes; and

"Whereas, The United States has made a commitment, as a signatory to the Boundary Water Treaty of 1909 and the Great Lakes Water Quality Agreement of 1978, to develop and implement programs to achieve the purposes and goals of the agreement; and

"Whereas, Current proposals for the 1984 federal budget include total elimination of the $3.6 million funding for the Great Lakes Environmental Research Laboratory and the $2.5 million funding for the Large Lakes Research Station; and

"Whereas, Pursuant to the proposals, the funding would cease and the two research centers would be closed down as of September thirtieth, nineteen hundred eighty-three; now, therefore, be it

"Resolved, That this Legislative Body strenuously objects to the proposed elimination or, indeed, to any reduction in funding for the Great Lakes Research Laboratory of the Large Lakes Research Station; and be it further

"Resolved, That this Legislative Body pause in its deliberations to memorialize the President and the Congress of the United States of America to continue and perpetuate full funding for the two research centers; and be it further

"Resolved, That copies of this Resolution, suitably engrossed, be transmitted to the

Honorable Ronald W. Reagan, President of the United States; Howard Baker, President Pro Tem of the Senate; Thomas P. O'Neill, Speaker of the House of Representatives, and to each Member of Congress from the State of New York."

POM-293. A resolution adopted by the Assembly of the State of New York; to the Committee on Environment and Public Works:

"LEGISLATIVE RESOLUTION—SENATE No. 672, ASSEMBLY No. 672

"Whereas, New York State, together with all the States and Provinces in the Great Lakes Basin, has been blessed with an incomparable resource in the form of the largest freshwater supply on earth; and

"Whereas, the prudent use and development of the water resources of the Great Lakes for purposes of consumption, hydroelectric capability and commercial and recreational activity is absolutely essential to the economy and prosperity of New York State and all of the Great Lakes States and Provinces; and

"Whereas, New York State and many of the States in the Great Lakes region have experienced severe economic conditions resulting from unemployment, soaring energy costs and loss of businesses and jobs to other regions; and

"Whereas, Increasing evidence points to severe freshwater shortages in parts of the United States and Canada; shortages that already are apparent and are expected to reach major proportions in the next decade; and

"Whereas, The search already has begun for alternative sources of water for those regions, with support for some of that search coming from the United States Federal Government; and

"Whereas, The water of the Great Lakes is urgently needed to meet the current and future domestic, industrial, navigational, power, agricultural and recreational needs of the Great Lakes and St. Lawrence region; and

"Whereas, The findings of the International Joint Commission's Great Lakes Diversions and Consumptive Uses Study Board indicates that the States and Provinces in the Great Lakes Basin will themselves be faced with substantial increases in consumptive uses within the Basin over the next half century to meet our own growing needs; and

"Whereas, The diversion of water from the Great Lakes Basin to other water basins significantly lowers lake levels and reduces the net supply of water available to New York residents and businesses; and

"Whereas, There exists already at least four diversions from Great Lakes water resources; and

"Whereas, Lowered lake levels and reduction of flows in connecting channels could result in serious losses in water supply, navigation and recreational values causing critical economic, social and environmental problems adverse to the people of New York and other States and Provinces within the Great Lakes region; and

"Whereas, The diversion of Great Lakes waters to other regions of the United States or Canada could result in severe restrictions in the growth and development of the Great Lakes region; and

"Whereas, It makes far more sense for development to occur in New York State and other States and Provinces where abundant supplies of fresh water already exist, rather than moving the water to other regions and further impairing the economic vitality of the Northeast; and

"Whereas, The State of New York and other States and Provinces within the Great Lakes region share in the responsibility for the stewardship of the tremendous natural resources which the Great Lakes provide; and

"Whereas, The Boundary Water Agreement of 1909 requires that any change in the flows and levels of any boundary waters is subject to approval by the Federal governments of both the United States and Canada; now, therefore, be it

"Resolved, That this Legislative Body strenuously objects to any new diversion of Great Lakes water for use outside the Great Lakes States and Provinces; and be it further

"Resolved, That this Legislative Body pause in its deliberations to memorialize the President and the Congress of the United States of America that no future diversions be considered until a thorough assessment takes place, involving all jurisdictions contiguous to the Great Lakes system, of the impact on navigation, power generation, environment and socio-economic development for all said jurisdictions; and be it further

"Resolved, That this Legislative Body pause in its deliberations to memorialize the President and the Congress of the United States of America that any further decision on the diversion of Great Lakes water for use outside of the Great Lakes States and Provinces be made only with the concurrence of the Great Lakes States, the United States Federal Government, and the Federal Government of Canada and the Provinces contiguous to the Great Lakes system; and be it further

"Resolved, That copies of this Resolution, suitably engrossed, be transmitted to the Honorable Ronald W. Reagan, President of the United States; Howard Baker, President Pro Tem of the Senate; Thomas P. O'Neill, Speaker of the House of Representatives, and to each Member of Congress from the State of New York."

POM-294. A resolution; adopted by the Legislature of the State of Minnesota; to the Committee on Environment and Public Works:

"RESOLUTION

"Whereas, acid rain is becoming our number one environmental problem across the United States and Canada with a potential of destroying agricultural crops, forestry, aquatic life, and causing damage to structural buildings; and

"Whereas, the long-range transport of atmospheric pollutants can cause acid rain far from emission source and is a growing interstate and international problem; and

"Whereas, current provisions of the Clean Air Act are not adequate to address the problems of acid rain, and present and future generations will be more adversely affected by delayed action; and

"Whereas, acid rain contributes to the increasing levels of heavy metal concentrations in public reservoirs and waterways which can pose a threat to human health; and

"Whereas, acid rain has destroyed aquatic life in lakes, retarded certain forest and agricultural crop growth, and corroded metals and public buildings and statues; and

"Whereas, in the Voyageurs National Park and Boundary Waters Canoe Area Wilderness, recent tests show high acidity in the lakes which scientists fear will cause serious damage to their whole ecosystems if the conditions remain unchecked; and

"Whereas, the problem of acid rain is a serious threat to the tourism component of Minnesota's economy and the friendly relations with our neighbors in Canada; and

"Whereas, Canada's Minister of the Environment identifies acid rain as "the single greatest irritant to the United States-Canadian relationship"; and

"Whereas, Canada and the United States signed a 1980 Memorandum of Intent to combat transboundary air pollution; and

"Whereas, Canada has already achieved cuts of 25 percent in sulfur emissions and a promise of 50 percent cuts by 1990 if the United States agrees to do the same; and

"Whereas, the state of Minnesota has enacted a 1982 law designed to curb the sources of acid deposition within our state; and

"Whereas, the Minnesota Pollution Control Agency has identified that significant areas of Minnesota may be damaged by the effects of acid precipitaion; NOW THEREFORE,

"Be it resolved by the Legislature of the State of Minnesota, That the President and Congress should take immediate action in this session of Congress to reduce the sources of acid rain by amendment to the Clean Air Act, or by separate legislation, and by providing adequate funding to the Environmental Protection Agency for monitoring and enforcement.

"Be it further resolved, That the Secretary of State of the State of Minnesota is instructed to transmit certified copies of this resolution to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the House of Representatives of the United States, to the Minnesota Senators and Representatives in Congress, to the Premiers of Manitoba and Ontario and to the Ambassador of Canada to the United States."

POM-295. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Environment and Public Works:

"RESOLUTION

"Whereas, acid rain is becoming our number one environmental problem across the United States and Canada with a potential of destroying agricultural crops, forestry, aquatic life, and causing damage to structural buildings; and

"Whereas, the long-range transport of atmospheric pollutants can cause acid rain far from emission source and is a growing interstate and international problem; and

"Whereas, current provisions of the Clean Air Act are not adequate to address the problems of acid rain, and present and future generations will be more adversely affected by delayed action; and

"Whereas, acid rain contributes to the increasing levels of heavy metal concentrations in public reservoirs and waterways which can pose a threat to human health; and

"Whereas, acid rain has destroyed aquatic life in lakes, retarded certain forest and agricultural crop growth, and corroded metals and public buildings and statues; and

"Whereas, in the Voyageurs National Park and Boundary Waters Canoe Area Wilderness, recent tests show high acidity in the lakes which scientists fear will cause serious damage to their whole ecosystems if the conditions remain unchecked; and

"Whereas, the problem of acid rain is a serious threat to the tourism component of Minnesota's economy and the friendly relations with our neighbors in Canada; and

"Whereas, Canada's Minister of the Environment identifies acid rain as 'the single greatest irritant to the United States-Canadian relationship'; and

"Whereas, Canada and the United States signed a 1980 Memorandum of Intent to combat transboundary air pollution; and

"Whereas, Canada has already achieved cuts of 25 percent in sulfur emissions and a promise of 50 percent cuts by 1990 if the United States agrees to do the same; and

"Whereas, the state of Minnesota has enacted a 1982 law designed to curb the sources of acid deposition within our state; and

"Whereas, the Minnesota Pollution Control Agency has identified that significant areas of Minnesota may be damaged by the effects of acid precipitation; Now, therefore,

"Be it resolved by the Legislature of the State of Minnesota, That the President and Congress should take immediate action in this session of Congress to reduce the sources of acid rain by amendment to the Clean Air Act, or by separate legislation, and by providing adequate funding to the Environmental Protection Agency for monitoring and enforcement.

"Be it further resolved, That the Secretary of State of the State of Minnesota is instructed to transmit certified copies of this resolution to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the House of Representatives of the United States, to the Minnesota Senators and Representatives in Congress, to the Premiers of Manitoba and Ontario and to the Ambassador of Canada to the United States."

POM-296. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Finance:

"RESOLUTION

"Whereas, during the last two decades thousands of steelworkers and hundreds of communities in the industrial heartland of America have been devastated by layoffs and plant closings; and

"Whereas, the U.S. steel industry has complained of the uncompetitive posture that it faces from foreign suppliers who are subsidized by foreign governments; and

"Whereas, the U.S. Steel Corporation has filed unfair trade practices because of unfair foreign competition against many of these foreign countries including Japan, West Germany, Italy, England, and France; and

"Whereas, the U.S. steel industry has stated many times that steelworker labor cost was their major problem in competing with foreign steel producers; and

"Whereas, the United Steelworkers of America have recently conceded wages and benefits to the steel industry to insure the survival of the domestic steel industry; and

"Whereas, the U.S. Steel Corporation has in the past imported iron ore from Canada and Venezuela, and finished foreign steel from Italy, Korea, and Japan to the detriment of the American steelworker and the communities they live in, and are now planning to import semifinished steel into the United States from Scotland, which will further devastate and undermine these communities and their economies; and

"Whereas, this action by U.S. Steel Corporation will result in a loss of 3,000 jobs immediately and possibly thousands of more jobs in Minnesota and other states; Now, therefore,

"Be it resolved by the Legislature of the State of Minnesota, That an immediate in-depth Congressional investigation into the business practices of the U.S. Steel Corporation and the practices of the steel companies in the United States who are importing foreign steel and iron ore into the United States that have cost thousands of American jobs.

Be it further resolved, That the Secretary of State is directed to prepare certified copies of this memorial and transmit them to the President and Secretary of the United States Senate, to the Speaker and Chief Clerk of the United States House of Representatives, and to Minnesota's Senators and Representatives in Congress."

POM-297. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Veterans Affairs:

"RESOLUTION

"Whereas, there are approximately 2,700,000 veterans in the United States who were exposed in Vietnam to toxic herbicides, chemicals, medications, and other environmental hazards and conditions; and

"Whereas, these veterans are now suffering numerous adverse health effects, including cancers, liver disorders, and skin disorders that may be the result of the exposure; and

"Whereas, scientific studies now completed or underway have documented a connection between such adverse health effects and exposure to toxic herbicides, chemicals, medications, and environmental hazards and conditions that existed in Vietnam; and

"Whereas, current Veteran Administrative regulations do not allow service connected disability compensation to be awarded for adverse health effects of toxic herbicides, chemicals, medications, and other environmental hazards and conditions that existed in Vietnam; Now, therefore,

"Be it resolved by the Legislature of the State of Minnesota, that Congress should speedily enact legislation to compensate Vietnam veterans for adverse health effects stated above. Appropriate agencies and resources of the United States should be brought to bear in an investigation of the health and genetic complaints of Vietnam Veterans exposed to toxic herbicides, chemicals, medications, and other environmental hazards and conditions.

"Be it further resolved that the Secretary of State of the State of Minnesota is directed to transmit certified copies of this memorial to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, to each Senator and Representative from Minnesota in the Congress of the United States, and to the Administrator of Veterans' Affairs."

POM-298. A resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on Finance:

"RESOLUTION

"Whereas, social security disability insurance benefits have been terminated to more than seven thousand residents of Massachusetts since nineteen hundred and eighty-one, even though most of those recipients continue to suffer totally disabling impairments; and

"Whereas, appeals to administrative courts are costly, time-consuming and emotionally burdensome and compound the original disability, though the majority of cases end favorably for the recipient, overturning the initial wrongful termination of benefits; and

"Whereas, the U.S. circuit court serving Massachusetts has ruled that medical improvement should be the primary guiding factor in disability determinations and that ruling has led to the high reversal rate and greater justice for recipients by administrative law judges; and

"Whereas, the Massachusetts general court has considered the problem serious enough to create a special commission on social security disability to investigate the state program, and said special commission has held numerous public sessions and gathered evidence to disclose the serious problems with the current system; and

"Whereas, said special commission has requested his excellency the governor of the commonwealth to issue a directive instructing the Massachusetts Rehabilitation Commission to follow the rulings of the Federal court in all instances in which such rulings are contrary to social security administration regulations, and said governor has issued such directive; and

"Whereas, the Massachusetts congressional delegation has indicated its support and involvement in these issues; and

"Whereas, legislation has been introduced in congress, to address many of the problems which in the current system, namely continuation of benefits through appeal, a face-to-face interview between claimant and disability determiner, and a requirement of proof of medical improvement before benefits may be terminated; now therefore be it

"Resolved, that the Massachusetts general court hereby requests the Congress of the United States to enact legislation that will ensure the rights of disabled persons who have been wrongfully denied social security disability benefits; and be it further

"Resolved, that copies of these resolutions be transmited forthwith by the Clerk of the House of Represantatives, to the President of the United States, the presiding officer of each branch of Congress and the Members thereof from the Commonwealth, and the Secretary of Health and Human Services."

POM-299. A joint resolution adopted by the Legislature of the State of Oregon; to the Committee on Foreign Relations:

"SENATE JOINT RESOLUTION 29

"Whereas the People's Republic of China has sought a closer trade relationship with the people of Oregon; and

"Whereas the people of Oregon wish to conduct and carry out numerous economic, educational, cultural programs and other relations with the People's Republic of China; and

"Whereas the people of Oregon and the People's Republic of China would each benefit from the establishment of closer relations with one another; now, therefore,

"Be it Resolved by the Legislative Assembly of the State of Oregon:

"That we, the members of the Sixty-second Legislative Assembly of the State of Oregon, hereby adopt Fujian, a coastal province of the People's Republic of China, as Oregon's sister state; and be it further

"Resolved, That a copy of this resolution be sent to the San Francisco Consulate of the People's Republic of China, to the Ambassador from the People's Republic of

China in Washington, D.C., to the Governor of the State of Oregon and to each member of the Oregon Congressional Delegation."

POM-300. A resolution adopted by the Assembly of the State of New York; to the Committee on Foreign Relations:

"LEGISLATIVE RESOLUTION, ASSEMBLY NO. 1069

"Whereas, The historical aspect of the countinuing, sorrowful conflict in Northern Ireland, have been made known to the world; and

"Whereas, Such publicity has done nothing to effectuate the peace so necessary to the beleagured people of Northern Ireland. New and direct approaches in search for solutions to the problems of Northern Ireland must be explored; and

"Whereas, It is the sense of this Assembled Body to most emphatically urge the immediate and direct and indirect diplomatic efforts of the United States Government in this endeavor in part through the selection and designation of a special envoy for the reconciliation of Northern Ireland, one empowered with the authority of the United States Government, capable of instituting immediate, personal and direct diplomatic negotiations between Dublin, Belfast and London; and

"Whereas, In order to underscore the critical importance of this diplomatic effort, this Assembled Body implores all candidates for President of the United States in the year nineteen hundred eighty-four, irrespective of party affiliations, issue statements acknowledging their intention of addressing the issue and problems of Northern Ireland; and

"Whereas, As a necessary first step in this renewed effort to secure a just and enduring peace, this Assembled Body further observes that the British Government should accept in principle the concept of a united Ireland; now, therefore, be it

"*Resolved*, That this Legislative Body pause in its deliberations and most emphatically urge that the United States Government designate a special envoy for Northern Ireland with the specific mission of initiating diplomatic direct and indirect diplomatic negotiations with Belfast, London and Dublin in a united effort for the effectuation of peace in Northern Ireland; and be it further

"*Resolved*, That individuals and organizations indicate their belief that diplomatic initiatives on Northern Ireland undertaken in the spirit of peacemaker and conciliator by the United States Government is the best hope for a positive, constructive solution by endorsing this resolution and/or signing petitions in support of its stated purposes; and be it further

"*Resolved*, That copies of this Resolution, suitably engrossed, be transmitted to The Honorable Ronald W. Reagan, President of the United States and to the Congress of the United States."

POM-301. A resolution adopted by the General Court of the Commonwealth of Massachusetts; to the Committee on Foreign Relations:

"RESOLUTIONS MEMORIALIZING CONGRESS TO FURTHER THE CAUSE OF HUMAN RIGHTS AND POLITICAL FREEDOMS IN EL SALVADOR

"*Resolved*, That the Massachusetts General Court hereby urges the Congress of the United States to support a foreign policy for the United States which furthers the cause of human rights and political freedoms in El Salvador, and which negates the potential involvement of Massachusetts citizens in an armed conflict in that country; and be it further

"*Resolved*, That a copy of these resolutions be forwarded by the Clerk of the House of Representatives to the Presiding Officer of each branch of the Congress and to the Members thereof from this Commonwealth."

POM-302. A petition from the Metropolitan Atlanta Crime Commission relating to the people executive treaty to stop drugs at the source; to the Committee on the Judiciary.

POM-303. A resolution adopted by the House of Representatives of the State of Illinois; to the Committee on Labor and Human Resources:

"HOUSE RESOLUTION NO. 272 OFFERED BY REPRESENTATIVE KLEMM

"Whereas, People throughout Illinois and the Nation are concerned about the rise in social and cultural hostilities, the increasing incidence of violent conflicts among nations and peoples, and ever-present threat of nuclear war; and

"Whereas, There is a need to promote nonviolent methods of resolving human conflict; and resolution techniques repeatedly have been demonstrated to provide a constructive, cost-effective means of resolving potentially violent human conflicts; and

"Whereas, Legislation is now pending in Congress which would establish the United States Academy of Peace and Conflict Resolution which would serve to advance international peace through the development and implementation of programs to promote the use of conflict management and resolution techniques in international conflicts; and

"Whereas, It would be appropriate to locate this National Academy in the City of Chicago, where the nuclear age began; therefore,

"Be it resolved, by the House of Representatives of the Eighty-Third General Assembly of the State of Illinois, that we support the passage of the Academy of Peace and Conflict Resolution Act, HR 1249 and S. 564; and be it further

"Resolved, That the House of Representatives of the State of Illinois respectfully memorializes the Illinois delegation to the Congress of the United States to work to secure passage of these bills; and be it further

"Resolved, That the House of Representatives of the State of Illinois recommends that the City of Chicago be given most serious consideration as the site for a United States Academy of Peace; and be it further

"Resolved, That copies of this resolution be transmitted to the President and Vice President of the United States; to the Speaker of the House of Representatives; to each member of the Illinois Congressional delegation; to the Governor of the State of Illinois; and the Mayor of the City of Chicago."

POM-304. A joint resolution adopted by the Legislature of the State of California; to the Committee on Labor and Human Resources:

"ASSEMBLY JOINT RESOLUTION NO. 43

"Whereas, The Congress of the United States has found that:

"(1) There are more than eight million handicapped children in the United States today.

"(2) The special educational needs of those children are not being fully met.

"(3) More than half of the handicapped children in the United States do not receive appropriate educational services which would enable them to have full equality of opportunity.

"(4) Developments in teacher training and diagnostic and instructional procedures and methods have sufficiently advanced that, given appropriate funding, state and local educational agencies can and will provide effective special education and related services to meet the needs of handicapped children.

"(5) It is in the national interest that the federal government assist state and local efforts to provide programs to meet the educational needs of handicapped children in order to assure equal protection of the law; and

"Whereas, To give effect to the goal of assuring handicapped children equal protection of the law, Congress established maximum state entitlements per handicapped child equal to the following percentages of the national average per pupil expenditure in public elementary and secondary schools:

"(1) 5 percent for the 1977-78 fiscal year.

"(2) 10 percent for the 1978-79 fiscal year.

"(3) 20 percent for the 1979-80 fiscal year.

"(4) 30 percent for the 1980-81 fiscal year.

"(5) 40 percent for the 1981-82 fiscal year.

"(6) 40 percent for the 1982-83 fiscal year.

"Whereas, Since 1979, Congress has not given states the full amount of financial assistance necessary to achieve its goal of assuring handicapped pupils equal protection of the law, giving instead the following percentages of the national average per pupil expenditure in public elementary and secondary schools:

"(1) 14.2 percent for the 1979—80 fiscal year.

"(2) 17.2 percent for the 1980-81 fiscal year.

"(3) 16 percent for the 1981-82 fiscal year.

"(4) 16.4 percent for the 1982-83 fiscal year.

"Whereas, As a result, in the 1982-83 fiscal year, California has received only eighty-one million nine hundred thousand dollars ($81,900,000) of the maximum potential allocation of one hundred ninety-nine million six hundred thousand dollars ($199,600,000) originally designated by Congress, for a shortfall equal to one hundred seventeen million seven hundred thousand dollars ($117,700,000); and

"Whereas, There would be no state deficit in special education funding today if the federal government had funded Public Law 94-142 as authorized by the 1975 law; now, therefore, be it

"Resolved by the assembly and Senate of the State of California, jointly. That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to provide full funding to assure that all handicapped children have available to them a free, appropriate public education emphasizing special education and related services designed to meet their unique needs, to assure that the rights of handicapped children and their parents or guardians are protected, to assist states and localities to provide for the education of all handicapped children, and to assess and assure the effectiveness of efforts to educate handicapped children; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the

United States, to the Speaker of the House of Represenatives, and to each Senator and Representative from California in the Congress of the United States."

POM-305. A resolution adopted by the Legislature of the State of Minnesota; to the Committee on Veterans' Affairs:

"RESOLUTION

"Whereas, there are approximately 2,700,000 veterans in the United States who were exposed in Vietnam to toxic herbicides, chemicals, medications, and other environmental hazards and conditions; and

"Whereas, these veterans are now suffering numerous adverse health effects, including cancers, liver disorders, and skin disorders that may be the result of the exposure; and

"Whereas, scientific studies now completed or underway have documented a connection between such adverse health effects and exposure to toxic herbicides, chemicals, medications, and environmental hazards and conditions that existed in Vietnam; and

"Whereas, current Veteran Administrative regulations do not allow service connected disability compensation to be awarded for adverse health effects of toxic herbicides, chemicals, medications, and other environmental hazards and conditions that existed in Vietnam; now, therefore,

"Be it, resolved by the Legislature of the State of Minnesota, That Congress should speedily enact legislation to compensate Vietnam veterans for adverse health effects stated above. Appropriate agencies and resources of the United States should be brought to bear in an investigation of the health and genetic complaints of Vietnam Veterans exposed to toxic herbicides, chemicals, medications, and other environmental hazards and conditions.

"Be it further resolved. That the Secretary of State of the State of Minnesota is directed to transmit certified copies of this memorial to the President of the United States, the President and Secretary of the United States Senate, the Speaker and Chief Clerk of the United States House of Representatives, to each Senator and Representative from Minnesota in the Congress of the United States, and to the Administrator of Veterans' Affairs."

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PERCY, from the Committee on Foreign Relations:

David M. Abshire, of Virginia, to be U.S. Permanent Representative on the Council of the North Atlantic Treaty Organization, with the rank and status of Ambassador Extraordinary and Plenipotentiary.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: David M. Abshire.

Post: U.S. Ambassador to NATO.

Contributions, amount, date, and donee.

1. Self (see below).

2. Spouse (see below).

3. Children and spouses—Names: Lupton, Anna, Mary Lee, Phyllis Carolyn—none.

4. Parents—Names: Mrs. James Abshire Sr. (see below). Father deceased.

5. Grandparents—Deceased.

6. Brothers and spouses—(see below).

7. Sisters and spouses—No sisters.

David M. Abshire and Carolyn S. Abshire—

1982: April 17, Fenwick for Senate, $250. July 14, Trible for Senate, $50.

1981: None.

1980: February 1, No. 1607, George Bush for President, $975. June 25, No. 1982, Committee to Elect Mays to the Senate, $40. September 28, No. 2208, Prelude to Victory (Reagan Dinner), $1,000.

1979: April 14, No. 886, George Bush for President, $25.

Mrs. James Abshire, Sr. (Mother)—

1982: Hamilton, Kentucky Republican Party, $10. Prelude to Victory (Robin Beard Campaign), $25.

1981: Republican Womens Club of Tennessee, $10.

1980: National Republican Senatorial Committee, $20. Tennessee Republican Party, $15. Republican National Committee, $25. Tennessee Republican Party, $10. Republican National Committee, $20. Republican National Committee, $20.

1979: Republican National Committee, $15. Republican National Committee, $15.

John Patten Abshire (Brother)—

1982: National Republican Senatorial Committee, $25. Republican National Committee, $25. Republican Senate Majority Fund, $25. GOP Victory Fund (Congressional Committee), $25. Cissy Baker Committee, $25. Trible for Senate Committee, $50. Friends of Stan Parris, $125.

1981: Republican National Committee, $100. National Republican Senatorial Committee, $100. GOP Victory Fund (Congressional Committee), $20. Republican Senate Majority Fund, $50. Friends of Stan Parris, $35.

1980: Republican National Committee, $100. National Republican Senatorial Committee, $100. GOP Victory Fund (Congressional Committee), $25.

1979: National Republican Senatorial Committee, $100. Republican National Committee, $100.

1978: Citizens for Senator Brock, $25. Republican National Committee, $100. National Republican Senatorial Committee, $100.

(The above nomination was reported from the Committee on Foreign Relations with the recommendation that it be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. DOLE (for himself, Mr. LONG, Mr. DOMENICI, Mr. BRADLEY, Mr. WALLOP, Mr. TOWER, and Mr. HEINZ):

S. 1598. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for interest on home mortgages in cases where State or local authorities elect not to use mortgage subsidy bonds; to the Committee on Finance.

By Mr. WILSON:

S. 1599. A bill for the relief of Samuel C. Willett; to the Committee on the Judiciary.

By Mr. ARMSTRONG:

S. 1600. A bill to provide for the indexing of the basis of certain capital assets; to the Committee on Finance.

By Mr. SARBANES:

S. 1601. A bill to amend title 5, United States Code, to delay by one year the effective date of the requirement to include interest in a deposit relating to credit for military service for the purposes of civil service retirement; to the Committee on Governmental Affairs.

By Mr. McCLURE (for himself, Mr. SYMMS, and Mr. D'AMATO):

S. 1602. A bill to amend the Internal Revenue Code of 1954 to provide a partial exclusion for dividends and interest beginning in 1983; to the Committee on Finance.

By Mr. INOUYE:

S. 1603. A bill for the relief of Ms. Pauline M. Lucas; to the Committee on the Judiciary.

S. 1604. A bill for the relief of Ms. Marlene Sabina Lajola; to the Committee on the Judiciary.

By Mr. THURMOND:

S. 1605. A bill to amend the Internal Revenue Code of 1954 to include structurally unemployed older Americans as members of targeted groups for credit for employment of certain new employees; to the Committee on Finance.

By Mr. MATHIAS:

S. 1606. A bill for the relief of Mr. Bobby Lochan; to the Committee on the Judiciary.

By Mr. ABDNOR:

S. 1607. A bill for the relief of Yi Tak Chiu, Selina Kwong-Yim Chiu and Ling Chung Chiu; to the Committee on the Judiciary.

By Mr. TSONGAS (for himself, Mr. PELL, Mr. MELCHER, Mr. INOUYE, and Mr. LEVIN):

S. 1608. A bill to amend the Fair Labor Standards Act of 1938 to provide persons may not be employed at less than the applicable wage under that act; to the Committee on Labor and Human Resources.

By Mr. GARN (for himself and Mr. PROXMIRE) (by request):

S. 1609. A bill to authorize depository institution holding companies to engage in activities of a financial nature, insurance underwriting and brokerage, real estate development and brokerage, and certain securities activities including dealing in, underwriting and purchasing government and municipal securities, sponsoring and managing investment companies and underwriting the securities thereof, to provide for the safe and sound operation of depository institutions, to amend the Federal Reserve Act, the Home Owners' Loan Act of 1933, and the Bank Service Corporation Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DURENBERGER (for himself, Mr. WEICKER, Mr. DOLE, Mr. PERCY, Mr. BOSCHWITZ, Mr. HOLLINGS, Mr. BUMPERS, Mr. RANDOLPH, Mr. NUNN, Mr. GORTON, Mr. ROTH, Mr. KENNEDY, Mr. HEINZ, Mr. ANDREWS, Mr. BRADLEY, Mr. SYMMS, Mr. STAFFORD, Mr. STEVENS and Mr. HATCH):

S. Con. Res. 52. A concurrent resolution expressing the sense of the Congress regarding the need for a uniform symbol of identification, specifically the International Symbol of Access, to be used either on special license plates or on dashboard placards

of vehicles carrying handicapped persons desiring the use of special parking privileges, and that all States be encouraged to honor this uniform symbol and grant reciprocity between the several States to those persons displaying this symbol and properly using the parking spaces reserved for handicapped persons; to the Committee on Governmental Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOLE (for himself, Mr. LONG, Mr. DOMENICI, Mr. BRADLEY, Mr. WALLOP, Mr. TOWER, and Mr. HEINZ):

S. 1598. A bill to amend the Internal Revenue Code of 1954 to provide a credit against tax for interest on home mortgages in cases where State or local authorities elect not to use mortgage subsidy bonds; to the Committee on Finance.

FIRST TIME HOMEBUYER ASSISTANCE ACT OF 1983

● Mr. DOLE. Mr. President, today I am introducing, for myself and on behalf of Senators LONG, DOMENICI, BRADLEY, WALLOP, and TOWER, the First Time Homebuyer Assistance Act of 1983, a bill that will provide State and local housing authorities with the option of providing substantially more financial assistance to home buyers, and the homebuilding industry, than is currently provided through issuance of tax-exempt mortgage subsidy bonds. To the extent this option is utilized, the Federal Government will save between 20 and 40 percent of the cost associated with mortgage bonds. Obviously, these savings will reduce Federal borrowing needs, which should also indirectly benefit home buyers and the homebuilding industry.

This bill will not, in any way, restrict the use or issuance of mortgage subsidy bonds. The bill simply would provide a new option for State and local governments and housing authorities that are now permitted to issue mortgage bonds. For any given year, a State or locality could elect, under this bill, not to issue some or all of the mortgage bonds authorized for that year by the Internal Revenue Code. In lieu of bonds, the State or locality would be permitted to issue mortgage credit certificates directly to home buyers. A mortgage credit certificate will enable the home buyer to buy down prevailing mortgage market interest rates by claiming a tax credit equal to a specified percentage of the interest paid on a home mortgage.

A tax credit program could be designed and implemented on the State and local level to do virtually everything that is currently feasible with mortgage subsidy bonds. However, because the tax credit mechanism is much more efficient than tax-exempt bonds, this bill can permit a substantial increase in the total amount of subsidy going to home buyers, and still provide Federal savings of 20 to 40 percent over the cost of mortgage bonds. In addition, although the mortgage credit certificate option can be used to duplicate existing mortgage bond programs, it can also be utilized with greater effectiveness and flexibility by those States and localities that may wish to modify the program of mortgage assistance they are currently providing.

ADVANTAGES AND DISADVANTAGES OF MORTGAGE SUBSIDY BONDS

Mortgage subsidy bond programs have many attractive features, which have made them a popular tool of home mortgage finance since their inception in 1978. The bonds make it possible for homebuyers to pay a mortgage interest rate that is somewhat lower than the conventional mortgage rate, because they are tax exempt. On the basis of information provided by the General Accounting Office and the Federal Home Loan Bank Board, it is estimated that mortgage subsidy bond loans provided savings of 10 to 15 percent over equivalent, market rate mortgage loans during 1981 and 1982.

Bond programs can also be tailored to serve State and local purposes, because States can develop programs which meet their own needs, as they understand them. This offers a flexibility which is often lacking in Federal housing assistance programs. State programs have served such varied purposes as urban revitalization, provision of credit to rural areas and other areas where mortgage credit is in short supply, local development objectives, and assistance to special groups in the population with particular housing needs.

Moreover, the process of financing a mortgage through the proceeds of a bond is only slightly more complicated administratively than is a conventional mortgage; the only additional steps are the bond issuance, the allocation of the proceeds to local lending institutions, and the certification that the individual homebuyer does in fact meet the Federal and State requirements for eligibility.

However, these advantages are costly to the Federal Government. A number of Government agencies and independent analysts have investigated the tax expenditures which mortgage subsidy bonds impose on the Treasury, and have concluded that bonds are an extremely expensive vehicle for assisting homebuyers. This cost was an important consideration to the Congress when it enacted the Mortgage Subsidy Bond Tax Act in 1980 with a 3-year sunset provision. At present, Congress is beginning to consider whether the sunset provision should be allowed to stand, or whether issuance of mortgage subsidy bonds should be permitted for some period into the future. The Senate has passed an amendment to H.R. 2973 that would repeal the sunset, indicating the strong support of the Senate for continued subsidies for homeownership.

Tax credits can provide an alternative mechanism to mortgage subsidy bonds, achieving the same congressionally approved purpose of facilitating homeownership for first-time home buyers, with the same advantages, but at a fraction of the cost in tax expenditures to the Federal Government, and with added benefits other than cost effectiveness.

HOW MORTGAGE CREDIT CERTIFICATES WOULD WORK

Under current law, each State is permitted to issue an amount of mortgage bonds each year, referred to as the State's applicable limit. Within each State, the applicable limit is apportioned among State and local authorities. Under this bill, any State or local agencies authorized to issue an amount of mortgage bonds could elect to forego issuing some or all of its bond allotment for any calendar year and instead issue mortgage credit certificates directly to home buyers. Each mortgage credit certificate would enable a home buyer to obtain a nonsubsidized mortgage loan from a lender or developer, and then claim a Federal tax credit for a specified percentage of his mortgage interest payments. In this way, the interest rate on a market rate mortgage loan would be reduced or bought down with the tax credit. Since the credit would be available as long as the home buyer retained the mortgage on his home, the subsidy provided by the annual tax credit would be indistinguishable from the subsidy provided by a mortgage loan obtained through a tax-exempt mortgage subsidy bond.

The total amount of credits allowed would be tied to the amount of unused bond authority, multipled by 14.35 percent.

This 14.35-percent rate is derived from estimates of the average amount of mortgage subsidy bond proceeds actually lent to home buyers, and estimates of the average benefit provided to home buyers from mortgage subsidy bond loans. Assuming that 87 percent of bond proceeds are actually lent, and that mortgage subsidy bond loans bear effective interest rates 15 percent below market interest rates for equivalent loans, the 14.35-percent rate established in the bill will provide 10 percent more subsidy to home buyers than could be provided with mortgage bonds.

For example, $100 million of mortgage bond proceeds would yield $87 million of mortgage loans, since on average only 87 percent of mortgage bond proceeds are actually lent to home buyers. These loans could provide mortgages for 2,000 home buyers with an average mortgage amount of

$43,500. At current interest rates, mortgage bond loans might bear an effective interest rate of 11¼ percent while market rate mortgages bore an effective interest rate of 13¼ percent.

Under the bill, instead of issuing $100 million of bonds, a State housing agency could issue mortgage credit certificate to first-time home buyers with conventional mortgage loans averaging $43,500. Each certificate might enable the home buyer to claim a tax credit of 15 percent of his mortgage interest payments. In this way a 13¼-percent conventional mortgage loan would be brought down to a 11¼ percent interest rate. But because the bill increases the amount of subsidy, this 15 percent credit could be provided to 2,200 home buyers, 200 more than would benefit from a mortgage subsidy bond program.

For each home buyer, the mortgage credit certificate would specify the principal amount of the mortgage loan, and the percentage credit to be allowed. The percentage credit that would approximate the subsidy provided by mortgage subsidy bonds would be between 10 and 15 percent. But the State or local authority could vary the percentage credit on its certificates, setting the credit percentage anywhere between 10 and 50 percent. In this way, the authority could give deeper subsidies for mortgages on less expensive homes acquired by lower income households, and shall lower subsidies for more expensive homes, if that was desired. Alternatively, if the authority determined that deeper subsidies were needed to help solve the affordability problem at all purchase price levels, the authority could choose to provide deeper subsidies to fewer households. Using the example described above, a State trading in $100 million in bond authority could provide 2,200 home buyers with 15 percent tax credits for the interest on mortgages averaging $43,500. Alternatively, it could provide 1,100 home buyers with 30-percent credits for the same size mortgages. Still another option would be to provide 10-percent credit certificates for 1,000 home buyers with an average mortgage principal amount of $100,000, and 30-percent credit certificates for 363 home buyers with an average mortgage principal amount of $40,000.

Mortgage credit certificates would be subject to the same Federal restrictions as are applicable to mortgage loans made with the proceeds of mortgage subsidy bonds. These restrictions include purchase price limitations, the first-time homebuyer requirement, and rules regarding use of the subsidy in targeted areas of economic distress. Mortgage credit certificates would also enjoy the same flexibility as mortgage bonds, including the authority's ability to use the certificates for qualified rehabiliation loans and home improvement loans.

COMPARISON OF CREDITS TO MORTGAGE SUBSIDY BONDS

The tax credit program authorized by this bill would have all of the attractive features of mortgage subsidy bonds.

BENEFITS TO HOMEBUYERS

The tax credit could provide exactly the same reduction in interest cost to the homebuyer as a mortgage subsidy bond loan. The only difference would be that the cost reduction occurs monthly with the mortgage subsidy bond, compared to annually with the tax credit. But this difference would be eliminated by taxpayers adjusting their income tax withholding or their estimated tax payments. Such adjustments would be done the same way homebuyers now adjust their withholding or estimated tax payments to reflect tax deductions for mortgage interest payments.

ADMINISTRATIVE SIMPLICITY

The tax credit would operate in almost exactly the same manner as the mortgage subsidy bond program does now. While the tax credits would reduce an individual's Federal tax liability, the program would be a State and local program. State and local housing authorities would select the individuals who would receive the credit. State and local governments would be able to set income and purchase price limits for eligibility, as they do for mortgage bond loans. Local lending institutions could also continue to participate, originating mortgages and servicing them for the assisted home buyers, as they presently do. In addition, credits could be made available in connection with particular development projects if the State or local authority desired. In short, a tax credit program using mortgage credit certificates could be operated in the same manner as mortgage subsidy bond loan programs are now operated.

FLEXIBILITY

At present the States are able to design their own mortgage subsidy bond programs to pursue whatever purposes they feel are most important to them. Some States have chosen to use bonds to provide mortgage capital to rural areas that are not fully served by private mortgage lenders. Others have used bonds to encourage revitalization of older urban centers. Still others are attempting to serve specific population groups which have special difficulty in meeting their housing needs. All of these objectives could be fulfilled as easily with the tax credits as with mortgage subsidy bonds.

In some areas of the country, in difficult economic conditions, mortgage money is not easily obtained at any interest rate, and mortgage bonds are utilized to raise mortgage capital. This bill, of course, does not limit the issuance of bonds for this purpose in any way. It should be pointed out, however, that mortgage credit certificates could be utilized in conjunction with taxable morgage bonds for this purpose. An authority could raise capital, at taxable interest rates, using a taxable mortgage revenue bond. The proceeds could then be lent by a local lender just as under the mortgage subsidy bond program. Finally, the authority could issue mortgage credit certificates to each home buyer, to reduce the interest rate produced by the taxable bond. This approach would provide comparable benefits to homebuyers at substantial savings to the Federal Government.

COUNTERCYCLICALITY

Mortgage subsidy bonds have been credited with helping to support the housing industry in the recent recession, by providing a source of lower cost long-term mortgage funds. Tax credits issued with mortgage credit certificates could provide exactly the same cost reduction to the potential home buyer, and, therefore, exactly the same countercyclical impact. In fact, tax credits could be a more certain countercyclical mechanism, because the cost savings would not vary drastically with changes in market interest rates, and would not depend on the spread between mortgage and tax-exempt bond interest rates, as in the case under a mortgage subsidy bond program. In early 1982, for example, when the recession in housing was especially severe, mortgage subsidy bonds provided an interest rate reduction of only 1½ percent points, while in the boom years of 1978 and 1979, the reduction was 2 percentage points. With mortgage credit certificates, a flat percentage reduction from market interest rates could always be provided. Moreover, the absolute amount of assistance available would increase when interest rates increased. This is not necessarily the case with mortgage subsidy bonds, since the subsidy depends entirely on the spread between taxable and tax-exempt bond interest rates.

FURTHER ADVANTAGES OF THE TAX CREDIT

The tax credit would meet the major objections that have been raised against mortgage subsidy bonds.

COST

The General Accounting Office has calculated the cost of a similar tax credit subsidy for a typical first-time home buyer, in present value terms, at about $3,500, based on 1982 interest rates. The present value of the tax expenditure resulting from a comparable benefit provided by a mortgage subsidy bond, also as of 1982, has been estimated at over $13,000 by the General Accounting Office, and over $11,000 by the Joint Committee on Taxation. Changing interest rates in the future

would affect all of these cost figures, but would probably change their relative magnitude only slightly. Thus, the cost of a tax credit program providing the same benefits as mortgage subsidy bonds would be only a fraction of the cost associated with a mortgage subsidy bond program. For this reason, the bill can permit an increased level of assistance to home buyers, while reducing the cost to the Federal Government.

INEQUITY

Mortgage subsidy bond loans provide a flat rate reduction from prevailing mortgage market interest rates. Accordingly, the actual amount of subsidy is greater for higher income homebuyers who buy more expensive homes with larger mortgages. This unbalanced subsidy comes on top of the unbalanced subsidy provided by Federal tax deductions for mortgage interest and real estate taxes. Since those tax deductions are more valuable to higher income home buyers with higher marginal tax rates, the overall effect is to provide higher income homeowners with a disproportionate amount of Federal housing assistance. A State or local authority could administer its tax credit program in such a way as to redress this imbalance. The authority could provide a benefit of equal value to lower and higher income households, which is not done now with mortgage bonds. It could also choose to provide a deeper subsidy to lower income home buyers, who currently benefit less from the deductibility of mortgage interest and real estate taxes. By deepening the subsidy for lower income households, homeownership could be made possible for somewhat lower income households than is currently feasible under mortgage subsidy bond programs. Because the credit will reduce tax liability directly, and will also be refundable, it will have full value to those first-time home buyers who are nonitemizers, or have very low tax liability.

SENSITIVITY TO MARKET FLUCTUATIONS

The tax credit program would not be adversely affected by the sort of fluctuations in interest rates which occurred in 1982. In that year interest rates declined rapidly and unexpectedly during the second half of the year, after mortgage bonds had been issued at higher rates prevailing during the first half. This decline in interest rates left many States with bond proceeds which they could not lend out because the bonds offered a mortgage loan rate well above the then-current mortgage rate. With a tax credit program, the State would be protected from interest rate fluctuations, because the tax credit would offer a fixed percentage "buy-down" of market interest rates prevailing when the mortgage was made, without regard to the rates prevailing when a bond was issued.

TARGETING

A tax credit program provides several options for targeting assistance to those most in need, which cannot be achieved through the use of mortgage revenue bonds.

At present, States are generally forced by practical concerns to assist eligible households on a first-come, first-served basis, without having the time or opportunity to select those who appear more deserving of assistance, or more in need of help in order to achieve homeownership. States and localities would not be required to alter their targeting under a tax credit program. But if a State or local authority desired to, it could establish a period of time during which households could apply for the credit, and then select recipients from among the applicants.

States and localities would also have the ability to tailor the terms of their assistance to the individual household, which at present they do not. The mortgage subsidy bond confers benefits on the individual household which vary only with the amount of the mortgage. Mortgage credit certificates could be varied according to the household's income. For example, certificates could provide a 20-percent reduction in market interest rates for households having the median income in the State, and then permit a larger reduction for lower income households. The household earning 80 percent of the median income might receive a 30-percent reduction in market interest rates through the tax credit, while the household earning an income of 120 percent of the median might receive only a 10-percent reduction. In this way, the issuing authority could choose to provide more help to the households it considered to be most in need, and less to those who it believes can afford housing with less assistance.

IMPACT ON TAX-EXEMPT BORROWING RATES

Most analysts have concluded that issuance of mortgage subsidy bonds drives up all tax-exempt borrowing rates significantly. A study by the Urban Institute concluded that each $1 billion of mortgage subsidy bonds raised interest rates on all other tax-exempt bonds by four to seven basis points. In 1982, States and localities issued $10 billion in mortgage revenue bonds, and $40 billion in traditional public-purpose tax-exempt bonds. The $10 billion worth of mortgage subsidy bonds drove up interest payments by $165 to $280 million per year on the $40 billion of other State and local borrowing, according to the Urban Institute calculations. With tax credits, this adverse impact on the tax-exempt market would not exist.

TRANSITION RULES FOR AUTHORITIES HISTORICALLY ISSUING BONDS BELOW APPLICABLE LIMITATION

The bill generally permits State and local authorities to exchange some or all of their bond authority for mortgage interest tax credits on a one-for-one basis. Because the credits are more efficient, each dollar that is exchanged will both help home buyers and reduce Federal tax expenditures. However, several States and local authorities would not be expected to issue all of their applicable limit for several years, based on current bond issuance levels. Accordingly, in order to insure that credits are available only if an authority actually forgoes issuance of bonds, a transition rule is provided for the authorities that will have issued less than their full allotment in 1983. Using a generous growth formula, the bill determines what the estimated actual usage would be for these issuers over the next 5 years. For example, a State that issued only $40 million of a $200 million limitation in 1983, would be estimated to issue $80 million in 1984, $110 million in 1985, and so forth. Under the bill's transition rule, this State would be permitted to issue credits only to the extent it retained authority to issue less than $80 million in bonds for 1984, Less than $110 million in 1985, and so forth. For example, if the State elected to forego only $110 million of its $200 million limitation in 1984, it would not receive any credits, since the State still has retained authority to issue substantially more bonds than it was estimated to be issuing that year on the basis of prior usage levels. However, if the State elected to forego $130 million of bonds in 1984, it would be treated as exchanging $10 million of bonds, since it retained authority to issue only $70 million of bonds, $10 million less than it was estimated to be issuing in 1984 on the basis of prior usage levels. It should be made clear that this rule does not limit the State's authority to issue all $200 million of its applicable limit in 1984, or any other transition year. The rule only requires a larger amount of bonds to be exchanged before credits are obtained, if the State wishes to use this option during the transition period.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the bill along with a technical explanation of its provision.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1598

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "First Time Homebuyer Assistance Act of 1983".

SEC. 2. CREDIT FOR INTEREST ON MORTGAGES WHERE STATE OR LOCAL AUTHORITIES ELECT NOT TO ISSUE MORTGAGE SUBSIDY BONDS.

(a) ALLOWANCE OF CREDIT.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1954 (relating to credits allowable against tax) is amended by inserting before section 45 the following new section:

"SEC. 44I. CREDIT FOR INTEREST ON CERTAIN HOME MORTGAGES.

"(a) IN GENERAL.—In the case of any taxpayer who receives a mortgage credit certificate with respect to his principal residence, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the applicable percentage on interest paid or accrued—

"(1) on the total amount of indebtedness which was incurred in connection with the acquisition, qualified rehabilitation, or qualified home improvement for which such certificate was issued, and

"(2) during the period such certificate is in effect.

"(b) MORTGAGE CREDIT CERTIFICATE AND QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM DEFINED.—For purposes of this section—

"(1) MORTGAGE CREDIT CERTIFICATE.—The term 'mortgage credit certificate' means any certificate which—

"(A) is issued by a State or political subdivision thereof under a qualified mortgage credit certificate program,

"(B) is issued to a taxpayer in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence,

"(C) specifies—

"(i) the applicable percentage determined under subsection (c), and

"(ii) the total amount of indebtedness incurred by the taxpayer in connection with such acquisition, rehabilitation, or improvement of the taxpayer's principal residence, and

"(D) is in such form as the Secretary may prescribe.

"(2) QUALIFIED MORTGAGE CREDIT CERTIFICATE PROGRAM.—

"(A) IN GENERAL.—The term 'qualified mortgage credit certificate program' means any program—

"(i) which is established by a State or political subdivision thereof for any calendar year for which it is authorized to issue mortgage subsidy bonds,

"(ii) under which the issuing authority elects, in such manner and form as the Secretary may prescribe, not to issue an amount of mortgage subsidy bonds which it may otherwise issue during such calendar year under section 103A,

"(iii) which meets the requirements of subsections (d), (e), (f), (h), and (j) of section 103A, and

"(iv) under which no mortgage credit certificate may be issued with respect to any residence any of the financing of which is provided from the proceeds of a mortgage subsidy bond.

"(B) AUTHORITY MAY HAVE MORE THAN 1 PROGRAM.—Each issuing authority may establish more than 1 qualified mortgage credit certificate program for any calendar year.

"(C) SPECIAL RULES RELATING TO APPLICATION OF SECTION 103A.—Under regulations prescribed by the Secretary, in applying section 103A for purposes of subparagraph (A)(iii)—

"(i) each qualified mortgage credit certificate program shall be treated as a separate issue, and

"(ii) the product determined by multiplying—

"(I) the amount of indebtedness on each mortgage credit certificate issued under such program, by

"(II) the applicable percentage with respect to such certificate.

shall be treated as proceeds of such issue and the sum of such products shall be treated as the total proceeds of such issue.

"(c) DETERMINATION OF APPLICABLE PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—Subject to the provisions of paragraph (2), each issuing authority shall specify the applicable percentage (not less than 10 percent or greater than 50 percent) with respect to each mortgage credit certificate.

"(2) AGGREGATE LIMIT ON APPLICABLE PERCENTAGES.—

"(A) IN GENERAL.—In the case of each qualified mortgage credit certificate program, the sum of the products determined by multiplying

"(i) the amount of indebtedness on each mortgage credit certificate issued under such program, by

"(ii) the applicable percentage with respect to such certificate,

shall not exceed 14.35 percent of the nonissued bond amount.

"(B) NONISSUED BOND AMOUNT.—For purposes of subparagraph (A), the term 'nonissued bond amount' means, with respect to any qualified mortgage credit certificate program, the amount of mortgage subsidy bonds which the issuing authority elects not to issue under subsection (b)(2)(A)(ii).

"(d) SPECIAL RULES.—

"(1) PERIOD FOR WHICH CERTIFICATE IS IN EFFECT.—A mortgage credit certificate shall be treated as in effect during the period—

"(A) beginning on the date such certificate is issued, and

"(B) ending on the earlier of the date on which—

"(i) such certificate is revoked by the issuing authority, or

"(ii) the residence to which such certificate relates ceases to be the principal residence of the individual to whom the certificate was issued.

"(2) CERTAIN REFINANCING PERMITTED.—For purposes of subsection (b)(2)(A)(iii), the requirements of section 103A(j)(1) shall be treated as met if a mortgage credit certificate is issued with respect to a mortgage which is used to replace an existing mortgage for which such a certificate has already been issued if, under regulations prescribed by the Secretary, such replacement mortgage does not extend the term, alter the amortization schedule, or increase the principal amount, of the original mortgage.

"(3) PUBLIC REPORTING REQUIREMENT.—At least 90 days before any mortgage credit certificate is to be issued under a qualified mortgage credit certificate program, the issuing authority shall provide reasonable public notice of—

"(A) the eligibility requirements for such certificate,

"(B) the methods by which such certificates are to be issued, and

"(C) such other information as the Secretary may require.

"(4) PRINCIPAL RESIDENCE.—The term 'principal residence' has the meaning given such term by section 1034.

"(5) RELATED PARTIES.—No credit shall be allowed under subsection (a) for any interest paid or accrued to a related party of the taxpayer.

"(6) QUALIFIED REHABILITATION AND HOME IMPROVEMENT.—

"(A) QUALIFIED REHABILITATION.—The term 'qualified rehabilitation' has the meaning given such term by section 103A(1)(7)(B).

"(B) QUALIFIED HOME IMPROVEMENT.—The term 'qualified home improvement' means an alteration, repair, or improvement described in section 103A(1)(6).".

(b) APPLICATION WITH SECTION 103A.—Subsection (g) of section 103A of the Internal Revenue Code of 1954 (relating to limitation on aggregate amount of qualified mortgage bonds issued during any calendar year) is amended by adding at the end thereof the following new paragraph:

"(8) REDUCTION FOR MORTGAGE CREDIT CERTIFICATES.—The applicable limit of any issuing authority for any calendar year shall be reduced by the amount of mortgage subsidy bonds which such authority elects not to issue under section 44I(b)(2)(A)(ii).".

(c) DISALLOWANCE OF PORTION OF DEDUCTION FOR INTEREST WHERE CREDIT TAKEN.—Section 163 of the Internal Revenue Code of 1954 (relating to deduction for interest) is amended by adding at the end thereof the following new subsection:

"(e) REDUCTION OF DEDUCTION WHERE SECTION 44I CREDIT TAKEN.—The amount of the deduction under this section for interest paid or accrued during any taxable year on indebtedness with respect to which a mortgage credit certificate has been issued under section 44I shall be reduced by the amount of the credit allowed with respect to such interest under section 44I.

(d) CREDIT TO BE REFUNDABLE.—

(1) IN GENERAL.—Subsection (b) of section 6401 of the Internal Revenue Code of 1954 (relating to amounts treated as overpayments) is amended by striking out the first sentence and inserting in lieu thereof the following: "If the amount allowable as credits under section 31 (relating to tax withheld on wages), section 39 (relating to certain uses of gasoline, special fuels, and lubricating oil), section 43 (relating to earned income credit), and section 44I (relating to mortgage interest) exceeds the tax imposed by subtitle A (reduced by the credits allowable under subpart A of part IV of subchapter A of chapter 1, other than the credits allowable under sections 31, 39, 43, and 44I), the amount of such excess shall be considered an overpayment.".

(2) CONFORMING AMENDMENTS.—

(A) Paragraph (2) of section 55(f) of such Code (defining regular tax) is amended by striking out "and 43" and inserting in lieu thereof "43, and 44I".

(B) Paragraph (4) of section 6201(a) of such Code (relating to assessment authority) is amended—

(i) by striking out "or section 43 (relating to earned income)" and inserting in lieu thereof ", section 43 (relating to earned income), or section 44I (relating to mortgage interest)", and

(ii) by striking out the caption and inserting in lieu thereof the following:

"(4) Overstatement of certain credits.—".

(C) Subsection (d) of section 6611 of such Code is amended by striking out the caption and inserting in lieu thereof the following:

"(d) ADVANCE PAYMENT OF TAX, PAYMENT OF ESTIMATED TAX, CREDIT FOR INCOME TAX WITHHOLDING, AND MORTGAGE INTEREST CREDIT.—".

(e) CONFORMING AMENDMENT.—The table of sections for subpart A of part IV of sub-

chapter A of chapter 1 is amended by inserting before the item relating to section 45 the following new item:

"Sec. 44I. Credit for interest on certain home mortgages.".

(f) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to interest paid or accrued after December 31, 1983, on indebtedness incurred after December 31, 1983.

(2) TRANSITIONAL RULE RELATING TO AMOUNT OF CERTIFICATES WHICH MAY BE ISSUED.—

(A) IN GENERAL.—If the aggregate amount of mortgage subsidy bonds issued by any authority during 1983 was less than the applicable limit of such authority under section 103A(g) of the Internal Revenue Code of 1954 for such calendar year, then, for purposes of section 44I(c) (2) of such Code, the nonissued bond amount with respect to any qualified mortgage credit certificate program (determined without regard to this paragraph) for calendar year 1984, 1985, 1986, 1987, or 1988 shall be reduced by the excess of the applicable limit of such authority for such calendar year over the amount determined under subparagraph (B) or (C).

(B) 1984.—For calendar year 1984, the sum of—

(i) the aggregate amount of mortgage subsidy bonds issued by the issuing authority during 1983, plus

(ii) 25 percent of the excess of the applicable limit of such authority for 1984 over the amount determined under clause (i).

(C) 1985, 1986, 1987, 1988.—For calendar year 1985, 1986, 1987, or 1988, the sum of—

(i) the amount determined for the preceding calendar year under this subparagraph or subparagraph (B), plus

(ii) 25 percent of the excess of the applicable limit of such authority for the calendar year over the amount determined under clause (i).

(D) SPECIAL RULE WHEN MORE THAN 1 PROGRAM.—For purposes of applying subparagraph (A) in any case where an issuing authority has more than 1 qualified mortgage credit certificate program for any calendar year, the nonissued bond amount with respect to any such program, before any reduction under subparagraph (A), shall be increased by the nonissued bond amount of all such programs preceding such program.

DESCRIPTION OF S. 1598—FIRST TIME HOME BUYER ASSISTANCE ACT OF 1983

SUMMARY

The Mortgage Subsidy Bond Tax Act of 1980 (the "1980 Act") imposed restrictions on the ability of State and local governments to issue tax-exempt bonds to finance owner-occupied residences. The 1980 Act provides that interest on mortgage subsidy bonds is exempt from taxation only if the bonds are "qualified mortgage bonds" or "qualified veterans' mortgage bonds". The 1980 Act restricts the aggregate annual volume of qualified mortgage bonds which a State, and local governments within the State, may issue. Qualified mortgage bonds must satisfy a number of additional requirements including a requirement that the bonds be issued before January 1, 1984.

The bill would allow State and local governments to elect, for any year, to exchange all or part of their qualified mortgage bond authority for authority to issue qualified mortgage credit certificates (MCCs). MCCs would entitle homeowners to refundable credits not exceeding 50 percent (but not less than 10 percent) of mortgage interest on qualifying principal residences. (The deduction for mortgage interest would be adjusted to reflect the credit). The credits would be subject to the existing eligibility requirements for mortgage subsidy bonds.

The amount of MCCs distributable by a State or local government would be determined by computing the value of a 14.35 percent credit on mortgages equal in value to the amount of exchanged mortgage subsidy bond authority. The issuing authority would be free to distribute this amount among credits of varying percentages (subject to the 50 percent and 10 percent limits and the rules applicable to mortgage subsidy bonds). For States and localities which issued less than their full authorized volume of mortgage subsidy bonds in 1983, the authority to issue MCCs would be phased in over a 5-year period.

Under the bill, MCCs could be distributed only following the announcement by the State or local government, at least 90 days before distribution, of a proposed plan of distribution.

PRESENT LAW

Overview.—The Mortgage Subsidy Bond Tax Act of 1980 (the "1980 Act")[1] imposed restrictions on the ability of State or local governments to issue interest on bonds issued for the purpose of making mortgage loans on single family residences. The 1980 Act provides that interest on mortgage subsidy bonds is exempt from taxation only if the bonds are "qualified mortgage bonds" or "qualified veterans' mortgage bonds".

Qualified veterans' mortgage bonds.—Qualified veterans' mortgage bonds are general obligation bonds, the proceeds of which are used to finance mortgage loans to veterans. Unlike qualified mortgage bonds, the tax-exemption for veterans' bonds does not expire after December 31, 1983.

Qualified mortgage bonds.—Qualified mortgage bonds must satisfy numerous requirements, discussed below. Also, interest on these bonds is tax-exempt only if the bonds are issued before January 1, 1984.

Volume limitations.—The 1980 Act restricts the aggregate annual volume of qualified mortgage bonds that a State, and local governments within the State, can issue. The State Ceiling if equal to the greater of (1) 9 percent of the average annual aggregate principal amount of mortgages executed during the 3 preceding years for single-family owner-occupied residences located within the State, or (2) $200 million.

Limitation to single-family, owner-occupied residences.—All proceeds (except issuance costs and reasonably required reserves) of qualified mortgage bonds must be used to finance the purchase of single-family residences located within the jurisdiction of the issuing authority. Additionally, it must be reasonably expected that each residence will become the principal residence of the mortgagor within a reasonable time after the financing is provided. Generally, the term single-family residence includes 2, 3, and 4 family residences if (1) the units in the residence were first occupied at least 5 years before the mortgage is executed and (2) one unit in the residence is occupied by the owner of the units.

General limitation to new mortgages.—With certain exceptions, all proceeds of qualified mortgage bonds must be used for the acquisition of new mortgages rather than existing mortgages. Exceptions are provided that permit replacement of construction period loans and other temporary initial financing, and certain rehabilitation loans. Rehabilitation loans must be made for work begun at least 20 years after the residence is first used and the expenditures must equal 25 percent or more of the mortgagor's adjusted basis in the building. Additionally, at least 75 percent of the existing external walls of the building must be retained as such after the rehabilitation.

Certain mortgage assumptions permitted.—Loans financed by qualified mortgage bond proceeds may be assumed if the residence satisfies the location and principal residence requirements, discussed above, and the assuming mortgagor satisfies the three-year and purchase price requirements, discussed below.

Limitation on advance refunding.—Qualified mortgage bonds may not be advance refunded.

Targeting requirement.—At least 20 percent of the proceeds of each issue must be made available for owner-financing in "targeted areas" for a period of at least one year. The term targeted area means a census tract in which 70 percent or more of the families have income which is 80 percent or less of the statewide median family income, or an area designated as an area of chronic economic distress.

Three-year requirement.—In order for an issue to be a qualified mortgage issue, at least 90 percent of the mortgages financed from the bond proceeds are required to be provided to mortgagors, each of whom did not have a present ownership interest in a principal residence at any time during the three-year period ending on the date the mortgage is granted. The three-year requirement does not apply with respect to mortgagors of residences in three situations: (1) mortgagors of residences that are located in targeted areas; (2) mortgagors who receive qualified home improvement loans;[2] and (3) mortgagors who receive qualified rehabilitation loans.

Purchase price requirement.—In order for an issue to be a qualified mortgage issue, all of the mortgages (or other financing) provided from the bond proceeds, except qualified home improvement loans, are required to be for the purchase of residences where the acquisition cost of each residence does not exceed 110 percent (120 percent in targeted areas) of the average area purchase price applicable to that residence.

Arbitrage requirements.—In order for an issue to be a qualified mortgage issue, the issue is required to meet certain limitations regarding arbitrage as to both mortgage loans and nonmortgage investments. The effective rate of interest on mortgages provided under an issue of qualified mortgage bonds (determined on a composite basis) may not exceed the yield on the issue by more than 1.125 percentage points. The 1980 Act also imposes restrictions on the arbitrage permitted to be earned on nonmortgage investments and requires that any arbitrage on nonmortgage investments must be paid or credited to the mortgagors or paid to the Federal Government.

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[1] Title XI of the Omnibus Reconciliation Act of 1980 (Public Law 96-499). The provisions of this Act (i.e., Code sec. 103A) were subsequently amended by section 220 of the Tax Equity and Fiscal Responsibility Act of 1982 (Public Law 97-248) ("TEFRA").

[2] Qualifed home improvement loans are loans, not exceeding $15,000, that finance the alteration or repair of a residence in a manner that substantially protects "the basic livability or energy efficiency of the property." (sec. 103A(1)(6)).

Qualified mortgage bonds usually have established a reserve to secure payment of debt service on the bonds. This reserve must be reduced as the debt service is reduced. However, if the sale of any investment would result in a loss exceeding the amount otherwise required to be paid or credited to mortgagors, the investment may be retained until it can be sold without resulting in such a loss.

EXPLANATION OF PROPOSED CREDIT

Qualified mortgage credit certificates.—The bill would allow State and local governments to elect, for any year, to exchange all or part of their qualified mortgage bond authority for authority to issue qualified mortgage credit certificates (MCCs). MCCs would take the form of certificates entitling taxpayers to credits for an applicable percentage of interest paid or accrued on indebtedness incurred to finance the acquisition (or qualified rehabilitation or improvement) of their principal residences.[3] Each certificate would specify (1) the principal amount if indebtedness which qualified for the credit and (2) the applicable percentage. The applicable percentage could not exceed 50 percent, but could not be less than 10 percent, of interest on the qualifying indebtedness. (The actual amount of the credit would depend upon the mortgage interest rate). The certificate would remain valid for each year during which the residence remained the principal residence of the mortgagor.

Subject to the 50 and 10 percent limitations, a State or locality could vary the applicable percentage for different sized mortgages or mortgages held by different classes of taxpayers. For example, a State or locality could decide to provide higher percentage credits for mortgages held by lower-income taxpayers.

Under the bill, MCCs would not be available for property financed with mortgage subsidy bonds.

Refundability.—MCCs would be fully refundable to the taxpayer. Thus, a taxpayer entitled to a credit which exceeded his income tax liability (determined without regard to the credit) would receive a direct payment for the excess.

Adjustment of interest deduction.—When a taxpayer received an MCC, the taxpayer's deduction for interest on the mortgage (sec. 163(a)) would be reduced by the amount of the credit. For example, a taxpayer receiving a 50% credit, and making $1,000 of interest payments, would receive a $500 credit and a deduction for the remaining $500 of interest payments.

Criteria for eligibility.—MCCs would be subject to the existing eligibility requirements (with the exception of the advance refunding and arbitrage limitations) applicable to mortgage subsidy bonds. Thus, MCCs would generally (1) be limited to single-family owner occupied residences (as defined under the mortgage subsidy bond provisions) located within the jurisdiction of the issuing authority; (2) be available for new mortgages (with allowances for qualified rehabilitation and improvement loans and for certain mortgage assumptions); and (3) be available to finance the acquisition of residences the acquisition cost of which does not exceed 110 percent (120 percent in targeted areas) of the average area purchase price applicable to the residence. Additionally, 90 percent of MCCs distributed under each MCC program[4] would be required to be made available only to mortgagors who did not have a present ownership interest in a principal residence at any time during the 3-year period ending on the date the mortgage is granted (with exceptions for qualified rehabilitation and home improvement loans and residences located in targeted areas). Finally, at least 20 percent of MCCs issued under each program (determined by the qualifying indebtedness for each certificate by the applicable percentage for that certificate) would be required to be made available for financing in targeted areas for a period of at least one year.[5]

Under the bill, MCCs could be issued for debt incurred to refinance a principal residence if (1) the refinancing takes the place of an existing mortgage for which a certificate has already been issued and (2) the refinancing does not extend the term or increase the principal amount of the original mortgage.

As in the case of mortgage subsidy bonds, a State or locality would be free to establish stricter criteria (including income limitations or more stringent purchase price requirements) for participation in an MCC program.

Volume limitations: General rules.—Under the amendment, the aggregate annual amount of MCCs issued by a State or locality could not extend 14.35 percent of the aggregate volume of mortgage subsidy bonds which the issuing authority elects not to issue in order to issue MCCs. For example, a State which was entitled to issue $200 million of mortgage subsidy bonds, and which elected to surrender $100 million of bond authority, could distribute an aggregate amount of MCCs not exceeding $14.35 million.[6]

The aggregate annual amount of MCCs issued by a State or locality would be determined by multiplying (1) the principal amount of each MCC certificate issued by the State or locality by (2) the applicable percentage for each certificate, and adding the products. For example, a State which elected to exercise $14.35 million of MCC authority could distribute credits for 14.35 percent of the interest payments on mortgages having an aggregate principal amount of $100 million (thereby approximating the benefits provided by $100 million of mortgage subsidy bonds). However, the State could also issue 50 percent credits for $28.7 million of mortgages, 10 percent credits for $143.5 million of mortgages, or a mix of higher and lower percentage credits designed to achieve its objectives (subject to the 10 and 50 percent requirements and the targeting and purchase price requirements applicable to mortgage subsidy bonds).

Phase-in of MCC authority.—States or localities which issued mortgage subsidy bonds in amounts less than their maximum legal authority, during 1983, would be subject to a 5-year phase-in of authority to issue MCCs. For each of these years, the amount of mortgage subsidy bond authority which a State or locality could exchange for authority to issue MCCs would be limited to the volume of mortgage subsidy bonds it actually issued during the year preceding December 31, 1983, increased for each year by 25% of the remaining differences between the 1983 volume and the statutory amount. For example, a State which had authority to issue $200 million of mortgage subsidy bonds in 1983, but actually issued only $100 million, would be entitled to exchange $125 million of authority in 1984 ($100 million plus 25 percent of the remaining statutory authority), $144 million in 1985 ($125 million plus 25 percent of authority remaining in 1984), $158 million in 986, $167 million in 1987, $175 million in 1988, and the full $200 million in 1989. (These amounts would then be multiplied by 14.35 percent to determine the amount of MCCs which could be issued.) The amount of bond authority which could be exchanged during the phase-in period would thus approximate the estimated volume of bonds that a State or locality actually would have issued during this period.

The phase-in schedule would apply regardless of the amount of authority actually exercised by a State or locality in any intervening year. Thus, in the example above, the State could exchange $144 million of bond authority in 1985 for authority to issue MCCs (resulting in an aggregate amount of $20.6 million of MCCs), regardless of the volume of its 1984 issues.

Where a State or locality issued both mortgage subsidy bonds and MCCs, the phase-in would apply to the total amount of bonds and credits which it could issue. Thus, in the example above, the State (if it elected to issue MCCs) could use or exchange a total of $144 million of mortgage subsidy bond authority in 1985. The phase-in would not apply if the State elected to issue only mortgage bonds. Thus, the bill would not impose any restrictions on the use or issuance of mortgage subsidy bonds except where an authority elected to exchange some or all of its bond authority in order to issue credits.

Public reporting requirement.—Under the amendment, State or local housing agencies could issue MCCs only after making generally available, at least 90 days prior to distribution, and proposed plan of distribution of the credits. The proposed plan would set forth the eligibility requirements to receive MCC certificates and the methods by which the certificates would be issued. State or local agencies could adopt plans of distribution for MCCs in connection with other housing assistance programs (including taxable bond issues, private development projects, or private mortgage lending programs).

Effective date.—The amendment would apply to interest paid or accrued after De-

[3] Loans between related persons would not qualify for the credit.

[4] A State of locality could have more than one MCC program in each year (subject to the aggregate volume limitations on MCCs).

[5] A State of locality will be considered to satisfy the single-family, purchase price, and targeted area restrictions, if (1) it attempts in good faith to meet such requirements and (2) any failure to meet such requirements results from inadvertent error.

[6] On the basis of data provided by the General Accounting Office (GAO) and the Federal Home Loan Bank Board, it is estimated that mortgage subsidy bonds provided loans in 1981 and 1982 bearing an effective interest rate between 10 and 15 percent below market interest rates for equivalent loans. It is also estimated that only 87 percent of mortgage subsidy bond proceeds are actually lent to homebuyers. The 14.35 percent subsidy rate established in the bill is derived by multiplying 87 percent, by the high (15 percent) estimate of the benefits of mortgage subsidy bond loans. That product is then increased by 10 percent, to yield a subsidy rate that is estimated to increase the average subsidy provided to homebuyers by 10 percent. Using the low estimate of mortgage subsidy bond benefits (10 percent reduction of market interest rates), the 14.35 percent subsidy rate would yield a 65 percent increase in the average subsidy provided to homebuyers under mortgage subsidy bonds. Using a mid-range estimate of mortgage subsidy bond benefits to homebuyers (12.5 percent reduction of market interest rates), the 14.35 percent subsidy rate would yield a 32 percent increase in the average subsidy provided to homebuyers.

cember 31, 1983, on mortgages executed after December 31, 1983.●

● Mr. DOMENICI. Mr. President, I am very pleased to be joining Senators DOLE and LONG in introducing the First-Time Homebuyers Assistance Act of 1983. This bill is one of those very rare opportunities where good Government in the form of cost efficiency, new federalism in the form of granting to States some added flexibility in meeting housing needs, and an opportunity to give low and moderate homebuyers more assistance are all benefits of this legislation. As if these three potential accomplishments are not enough, this bill would also save the Treasury money. That translates into a more efficient use of taxpayer's dollars.

I have been concerned for a long time that more and more American families are being priced out of the housing market. This could not come at a more inopportune time. The baby boom generation will be in the prime homebuying ages of 25 to 45 during the 1980's. One and one-half million prospective first-time homebuyers will be entering the marketplace each year during the 1980's. FNMA has estimated that the demand for mortgages for the remainder of the decade will be approximately $1.6 trillion. The magnitude of these housing needs is a challenge to our housing policy and demands careful and creative legislation. I think the option described in this bill is a step in the right direction.

The bill creates a tax credit for mortgage interest that can be used instead of, or in addition to mortgage revenue bonds. It grants to housing finance agencies throughout the country added flexibility. Under present law housing finance agencies use the proceeds from the sale of tax-exempt bonds to purchase mortgage loans made by private lenders. Since the interest income on the bonds is tax-exempt, issuing agencies can offer a lower rate than comparable taxable bonds. The interest savings is passed on to home buyers in the form of below conventional mortgage market rates.

During economic times when interest rates are high I think the housing finance agencies have done an excellent job in bridging the housing affordability gap. The bill that Senators DOLE, LONG, and I are introducing today would give agencies a very important option that they can use in addition to mortgage revenue bonds.

The same State and local housing finance agencies currently allowed to issue mortgage revenue bonds would be permitted the option to issue refundable income tax credit certificates directly to first time home buyers instead. The credit to the home buyer could be set by the agency at any rate from 10 to 50 percent of the interest expense on the home buyer's mortgage. The credit would continue for as long as that mortgage existed.

Because the credits can vary from 10 percent to 50 percent the lower income families who really need more of a subsidy will get it. On the other hand, moderate income families who only need a slight subsidy to qualify for homeownership will get the assistance they need to make the home ownership dream a reality. I believe the potential is there for a very efficient, well tailored program. I see the housing finance agencies playing a pivotal role in meeting America's housing needs.

I believe that this option, with its attendant flexibility, will be a valuable tool to better target the low- and moderate-income families who really need this assistance in order to make homeownership possible.

In return for authority to issue the credits, the housing finance agencies would give up the right to issue an amount of mortgage revenue bonds equal to the amount of mortgage underlying the credits. The total amount of credits allowed would be tied to the amount of unused bond authority traded in.

An example best explains how this program would work: A housing finance agency with $200 million in authorized bond authority could elect to issue $100 million worth of mortgage revenue bonds using the present program and to trade in $100 million in bond authority which could provide 2,200 home buyers with tax credits equal to 15 percent of the interest on mortgages averaging $43,500; or it could help 1,100 home buyers by issuing 30-percent credits for the same size mortgages; or it could decide to help 1,000 home buyers by issuing 10-percent credits for $100,000 mortgages and 363 home buyers with 30-percent credits for $40,000 mortgages.

The housing finance agencies would be free to elect each year and would be offered the same flexibility now available under the mortgage revenue bond program in packaging the credits with conventional, FHA, or VA financing.

In addition to flexibility, this bill offers the housing market stability. I believe these two advantages are necessary complements to the mortgage revenue bond program. Tax credits are not interest rate sensitive and would, therefore, be a stable housing subsidy that homebuilders and home buyers could depend on.

Homebuilders in my State tell me that when interest rates drop rapidly the bond program does not help them sell houses. They are referring to the situation like we experienced in 1982. Interest rates declined rapidly after mortgage bonds had been issued at higher rates. This decline in interest rates left many States with bond proceeds that they could not lend out because the bonds offered a mortgage loan rate well above the then-current mortgage rate.

To use my State as an example, the New Mexico Finance Authority had money available at 12.12 percent, however, when the FHA rate dropped to 11 percent the mortgage bond money was no longer competitive. Yet, because many New Mexicans are low- and middle-income families, the 11-percent rate was still too high for them to qualify for homeownership. The tax credit program could fill this gap. This bill would help the people who really need the assistance and at the same time aid the homebuilding industry.

Revenue impact estimates in this area are very difficult. However, it is estimated that this proposal could save 20 to 40 percent in foregone revenue and, at the same time, permit more housing subsidies.

I urge my colleagues in the Senate to join in the support of this legislation.●

● Mr. HEINZ. Mr. President, I rise today to join the distinguished chairman of the Finance Committee, Senator DOLE, as a cosponsor of the First-Time Home Buyer Assistance Act of 1983. The bill would allow State and local housing agencies to choose to exchange mortgage revenue bond (MRB) authority for the authority to issue mortgage credit certificates, (MCC) to first-time home buyers. The certificates would entitle the holder to claim a Federal tax credit on a percentage of mortgage interest paid on a principal residence for the duration of the mortgage on the residence. In effect, home buyers would be able to buy down prevailing interest rates by claiming the tax credit.

The principal benefit of this approach is that the tax credit is an attractive fiscal alternative to the inherent inefficiency of tax-exempt financing as a form of subsidy. Estimates are that the savings to the U.S. Treasury will be significant.

A second important advantage of the bill is that it will alleviate the crowding out of traditional purpose municipal bonds from the bond market. Given the state of our infrastructure, thus will be an increasingly important benefit. Additionally, this proposal does not pose any direct threat to the popular and successful mortgage revenue bond program. It imposes no restrictions on MRB's, leaving it to the discretion of State and local housing agencies to use the mortgage credit certificate option.

Mr. President, there is no question in my mind that this proposal deserves the consideration of Congress. However, like most good, new ideas, it raises some important questions. First, as an early cosponsor of S. 137, I want to go on record in urging quick congressional resolution of the MRB

sunset repealer. It has also been noted that the mortgage credit certificate does not guarantee the availability of mortgage financing. The transition rules deserve close scrutiny, especially in States whose MRB volume has been down due to the recession. I feel certain that Senator DOLE will continue to work with his cosponsors, and groups like the State housing finance agencies and the homebuilders to assure that these questions can be satisfactorily resolved.

In closing, Mr. President, I congratulate Senator DOLE for developing this proposal and look forward to working with him to enact the legislation.●

By Mr. SARBANES:

S. 1601. A bill to amend title 5, United States Code, to delay by 1 year the effective date of the requirement to include interest in a deposit relating to credit for military service for the purposes of Civil Service Retirement; to the Committee on Governmental Affaris.

DELAY IN DEADLINE FOR MAKING MILITARY SERVICE CONTRIBUTIONS TOWARD RETIREMENT

● Mr. SARBANES. Mr. President, I am today introducing legislation to extend for 1 year the deadline for making the military service contributions required by the 1982 Budget Reconciliation Act for those affected by the so-called catch 62 dilemma.

The catch-62 refers to a provision of law requiring a reduction in annuities at age 62 for all civil service retirees with prior military service—since 1956—who combine their years of military and Federal civilian service for retirement purposes. Until last year, the law required a civil service annuity to be recomputed at age 62 to remove the years of military service. This reduction was intended to reflect the fact that military service is covered by social security while civil service is not. The problem with the recomputation was that it often resulted in an annuity reduction much greater than the offsetting benefits under social security.

As my colleagues may recall, the Senate addressed this problem by adopting language eliminating the reduction. Unfortunately, during conference consideration of the 1982 Reconciliation Act, a scheme was developed, which was never the subject of any hearings, requiring that individuals contribute an amount equal to 7 percent of the wages earned during military service. The idea was that this contribution would reflect the fact that military personnel do not contribute toward retirement while civil service personnel do contribute.

The contribution requirement has turned out to be a nightmare to implement. The law requires that all affected employees have their contributions in by October 1, 1984, or begin paying interest. This involves 1.4 million veterans. The problem is that it is proving impossible to reconstruct what these people earned during their military service. Pay records are not kept for anyone after discharge. Other records are kept but thousands were destroyed in a major fire at the records center. What is on file is only retrievable manually at $1.75 per record.

As of today, very few people even know of the contribution requirement because agencies are confused about the implementation and have not publicized it. Almost no one has been able to get the information necessary to make the contribution. The Department of Defense has developed a computer program to estimate earnings but it is not yet in place. There is currently a backlog of 30,000 requests for earnings information. The Department of Defense acknowledges that it cannot meet the 1984 deadline and supports a 1-year extension.

The legislation I have introduced extends the deadline for 1 year, until October 1, 1985. If the October 1984 deadline is not extended, most of the affected veterans will be placed in an extremely unfair situation. Through no fault of their own, they will either have no earnings information or only recently have received information. By law they will then be forced to pay interest on any amount not contributed by the October 1, 1984, deadline. In my view the deadline must be extended to avoid placing an unfair burden on veterans now serving in the civil service and to give Congress time to further review the situation.●

By Mr. McCLURE (for himself, Mr. SYMMS, and Mr. D'AMATO):

S. 1602. A bill to amend the Internal Revenue Code of 1954 to provide a partial exclusion for dividends and interest beginning in 1983; to the Committee on Finance.

SAVINGS INCENTIVE ACT OF 1983

● Mr. McCLURE. Mr. President, I am proud to rise today to introduce another piece of legislation designed to restore some important tax incentives for small savers.

With the enactment of the Economic Recovery Tax Act of 1981 (ERTA), Congress took a major step in reforming our tax structure to increase the incentives to save. At the heart of these reforms is the popular individual retirement account (IRA) which was expanded to include the entire working population. There has been a swift and positive response by the American people to this program and some estimates indicate that in 1982 about $10 billion was deposited in IRA's.

Also included in ERTA was the all savers certificate. These certificates were designed to stem the tide of stiff competition regulated financial institutions were feeling from money market funds offering substantially higher rates of return on deposits. These new certificates were issued between October 1, 1981, and December 31, 1982, and yielded up to 70 percent of the average yield of the most recently issued 1-year Treasury bill. In general, financial institutions were required to use 75 percent of the proceeds from these certificates for home mortgages and agricultural loans. Savers received a $1,000—$2,000 on a joint return—income tax exclusion on the interest earned from the certificates.

In an effort to further direct money into the all-savers certificate program the $200—$400 on a joint return—exclusion of interest income from taxable income was temporarily repealed until the 1985 tax year. At the time it was felt that saving incentives should be directed into IRA's or all-savers certificates. The dividend exclusion was also changed and reduced from $200/$500 to $100/$200.

In the final analysis the American people are left with only three real incentives to save and invest, none of which give the small saver a break on interest earned in a savings account:

First, are the popular IRA accounts.

Second, is the small $100/$200 dividend exclusion.

Third, is the allowable exclusion of interest associated with the all-savers certificate if the certificate was purchased before the program expired in December of 1982.

Fortunately, ERTA provided that beginning in tax year 1985 a modified exclusion for net interest will automatically be enacted. This modification will allow individuals to exclude 15 percent of net interest received up to $3,000—$6,000 on a joint return—from taxable income. Net interest is the excess of qualified interest income—generally interest income comes from savings institutions regulated under Federal or State law—over qualified interest expense—all deductible interest expense. There is no doubt that this is an improvement over the previous $200/$400 exclusion that expired in 1981. Unfortunately, it will not go into effect until the 1985 tax year, which leaves small savers with a 2 year incentive gap.

My legislation merely restores some of these simple incentives by moving the 15-percent net interest exclusion from the 1985 tax year to the 1983 tax year. The legislation also allows dividends to be included with interest income.

Clearly our tax laws favor consumer borrowing and discourage personal saving. During the 1970's inflation and tax changes eroded real savings returns while at the same time decreased the real cost of borrowing. As a result, our savings rate as a percentage of disposable personal income has dropped from 8.6 percent in 1975 to

just over 6.5 percent in 1982. ERTA went a long way to give back some of these incentives but there are some pieces to the puzzle still missing.

It is extremely important to clear up this puzzle and return some incentives to save and invest to the American people.

I urge my colleagues to join with me and cosponsor this important piece of legislation and I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1602

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST.

(a) IN GENERAL.—Section 116 of the Internal Revenue Code of 1954 (relating to partial exclusion of dividends received by individuals) is amended to read as follows:

"SEC. 116. PARTIAL EXCLUSION OF DIVIDENDS AND INTEREST RECEIVED BY INDIVIDUALS.

"(a) EXCLUSION FROM GROSS INCOME.—Gross income does not include amounts received during the taxable year by an individual as—

"(1) dividends from a domestic corporation, or

"(2) interest.

"(b) LIMITATIONS.—

"(1) MAXIMUM DOLLAR AMOUNT.—The aggregate amount excluded from the gross income of a taxpayer under subsection (a) for any taxable year shall not exceed 15 percent of the lesser of—

"(A) $3,000 ($6,000 in the case of a joint return), or

"(B) the excess of—

"(i) the amount of interest and dividends received by such taxpayer during such taxable year, over

"(ii) the sum of—

"(I) the amount of any deduction allowed the taxpayer under section 62(12) for the taxable year, plus

"(II) the amount of qualified interest expenses of such taxpayer for the taxable year.

"(2) CERTAIN DIVIDENDS EXCLUDED.—Subsection (a)(1) shall not apply to any dividend from a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations).

"(c) DEFINITIONS; SPECIAL RULES.—For purposes of this section—

"(1) INTEREST DEFINED.—The term 'interest' means—

"(A) interest on deposits with a bank (as defined in section 581),

"(B) amounts (whether or not designated as interest paid, in respect of deposits, investment certificates, or withdrawable or repurchasable shares, by—

"(i) an institution which is—

"(I) a mutual savings bank, cooperative bank, domestic building and loan association, or credit union, or

"(II) any other savings or thrift institution which is chartered and supervised under Federal or State law,

the deposits or accounts in which are insured under Federal or State law or which are protected and guaranteed under State law,

"(ii) an industrial loan association or bank chartered and supervised under Federal or State law in a manner similar to a savings and loan institution,

"(C) interest on—

"(i) evidences of indebtedness (including bonds, debentures, notes, and certificates) issued by a domestic corporation in registered form, and

"(ii) to the extent provided in regulations prescribed by the Secretary, other evidences of indebtedness issued by a domestic corporation of a type offered by corporations to the public,

"(D) interest on obligations of the United States, a State, or a political subdivision of a State (not excluded from gross income of the taxpayer under any other provision of law),

"(E) interest attributable to participation shares in a trust established and maintained by a corporation established pursuant to Federal law, and

"(F) interest paid by an insurance company under an agreement to pay interest on—

"(i) prepaid premiums,

"(ii) life insurance policy proceeds which are left on deposit with such company by a beneficiary, and

"(iii) under regulations prescribed by the Secretary, policyholder dividends left on deposit with such company.

"(2) DISTRIBUTIONS FROM REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS.—Subsection (a) shall apply with respect to any dividends from—

"(A) a regulated investment company, subject to the limitations provided in section 854(b)(2), or

"(B) real estate investment trust, subject to the limitations provided in section 857(c).

"(3) CERTAIN NONRESIDENT ALIENS INELIGIBLE FOR EXCLUSION.—In the case of a nonresident alien individual, subsection (a) shall apply only—

"(A) in determining the tax imposed for the taxable year pursuant to section 871(b)(1) and only in respect of dividends and interest which are effectively connected with the conduct of a trade or business within the United States, or

"(B) in determining the tax imposed for the taxable year pursuant to section 877(b).

"(4) QUALIFIED INTEREST EXPENSES.—The term 'qualified interest expenses' means an amount equal to the excess of—

"(A) the amount of the deduction allowed the taxpayer under section 163(a) for the taxable year, over

"(B) the amount of such deduction allowed with respect to interest paid or accrued on indebtedness incurred in—

"(i) acquiring, constructing, reconstructing, or rehabilitating property which is primarily used as a dwelling unit (as defined in section 280A(f)(1)), or

"(ii) carrying on a trade or business of such taxpayer.

"(5) LIMITATION ON QUALIFIED INTEREST EXPENSES, ETC.—

"(A) LIMITATION.—The amount of the qualified interest expense of any taxpayer for any taxable year shall not exceed such taxpayer's excess itemized deductions (as defined in section 63(c)).

"(B) COORDINATION WITH OTHER PROVISIONS.—For purposes of sections 37, 43, 85, 105(d), 165(c)(3), 170(b), and 213, adjusted gross income shall be determined without regard to the exclusion provided by this section.".

(b) REPEAL OF PARTIAL EXCLUSION OF INTEREST PROVIDED IN ECONOMIC RECOVERY TAX ACT OF 1981.—Subsections (a) and (c) of section 302 of the Economic Recovery Tax Act of 1981 are hereby repealed.

(C) CONFORMING AMENDMENTS.—

(1) The table of sections for part III of subchapter B of chapter 1 of the Internal Revenue Code of 1954 is amended by inserting "and interest" after "dividends" in the item relating to section 116.

(2) Paragraph (2) of section 265 of such Code (relating to expenses and interest relating to tax exempt income) is amended by striking out the first sentence thereof and inserting in lieu thereof the following: "Interest on indebtedness incurred or continued to purchase or carry obligations the interest on which is wholly exempt from the taxes imposed by this subtitle, to purchase or carry any certificate to the extent the interest on such certificate is excludable under section 128, or to purchase or carry obligations or shares (or to make other deposits or investments) the interest on which is described in section 116(c)(1) to the extent such interest is excludable from gross income under section 116.".

(3) Subsection (b) of section 854 of such Code is amended to read as follows:

"(b) OTHER DIVIDENDS AND TAXABLE INTEREST.—

"(1) DEDUCTION UNDER SECTION 243.—In the case of a dividend received from a regulated investment company (other than a dividend to which subsection (a) applies)—

"(A) if such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividends; and

"(B) the aggregate dividends received by such company during such taxable year are less than 75 percent of it gross income,

then, in computing the deduction under section 243, there shall be taken into account only that portion of the dividend which bears the same ratio to the amount of such dividend as the aggregate dividends received by such company during such taxable year bear to its gross income for such taxable year.

"(2) EXCLUSION UNDER SECTION 116.—If—

"(A) a dividend (other than a dividend described in subsection (a)) is received by the taxpayer from a regulated investment company which meets the requirements of section 852(a) for the taxable year in which such dividend is paid by such company,

"(B) the aggregate amount of interest received by such company during the taxable year is less than 75 percent of the gross income of such company for such taxable year, and

"(C) the aggregate amount of dividends received by such company during the taxable year is less than 75 percent of the gross income of such company for such taxable year,

then, in computing the exclusion under section 116, there shall be taken into account only that portion of such dividend received by the taxpayer which bears the same ratio to the amount of such dividend as the sum of the aggregate amount of dividends and interest received by such company during the taxable year bears to the gross income of such company for the taxable year. For purposes of the preceding sentence, gross income and the aggregate amount of interest received shall each be reduced by so much of the deduction allowed by section 163 for the taxable year as does not exceed

the aggregate amount of interest received for the taxable year.

"(3) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a regulated investment company which may be taken into account as a dividend for purposes of the exclusion under section 116 and the deduction under section 243 shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) GROSS INCOME.—The term 'gross income' does not include gain from the sale or other disposition of stock or securities.

"(B) AGGREGATE DIVIDENDS RECEIVED.—The term 'aggregate dividends received' includes only dividends received from domestic corporations other than dividends described in section 116(b)(2) (relating to dividends excluded from gross income). In determining the amount of any dividend for purposes of this subparagraph, the rules provided in section 116(c)(2) (relating to certain distributions) shall apply.

"(C) AGGREGATE AMOUNT OF INTEREST RECEIVED.—The term 'aggregate amount of interest received' includes only interest described in section 116(c)(1).".

(4) Subsection (c) of section 857 of such Code (relating to restrictions applicable to dividends received from real estate investment trusts) is amended to read as follows:

"(C) LIMITATIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—

"(1) CAPITAL GAIN DIVIDEND.—For purposes of section 116 (relating to exclusion for dividends and interest received by individuals), a capital gain dividend (as defined in subsection (b)(3)(C)) received from a real estate investment trust shall not be considered a dividend.

"(2) OTHER DIVIDENDS.—In the case of a dividend received by the taxpayer from a real estate investment trust (other than a dividend described in paragraph (1)), if—

"(A) the real estate investment trust meets the requirements of this part for the taxable year during which it paid the dividend, and

"(B) the aggregate amount of interest received by the real estate investment trust for the taxable year is less than 75 percent of the gross income of such trust,

then, in computing the exclusion under section 116, there shall be taken into account only that portion of such dividend received by the taxpayer which bears the same ratio to the amount of such dividend as the aggregate amount of interest received by such trust bears to the gross income of such trust for such taxable year.

"(3) ADJUSTMENTS TO GROSS INCOME AND AGGREGATE INTEREST RECEIVED.—For purposes of paragraph (2)—

"(A) gross income does not include the net capital gain,

"(B) gross income and the aggregate amount of interest received shall each be reduced by so much of the deduction allowed by section 163 for the taxable year (other than for interest on mortgages on real property owned by the real estate investment trust) as does not exceed the aggregate amount of interest received for the taxable year, and

"(C) gross income shall be reduced by the sum of the taxes imposed by paragraphs (4), (5), and (6) of section 857(b).

"(4) Aggregate amount of interest received.—For purposes of this subsection, the term 'aggregate amount of interest received' means only interest described in section 116(c)(1).

"(5) NOTICE TO SHAREHOLDERS.—The amount of any distribution by a real estate investment trust which may be taken into account as a dividend for purposes of the exclusion under section 116 shall not exceed the amount so designated by the trust in a written notice to its shareholders mailed not later than 45 days after the close of its taxable year.

"(6) CROSS REFERENCE.—

"For restriction on dividends received by a corporation, see section 243(c)(2).".

(5) Section 128 of such Code (relating to partial exclusion of interest) is hereby repealed.

(6) The table of sections for part III of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 128.

SEC. 2. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this Act shall apply to taxable years beginning after December 31, 1982.

(b) TERMINATION OF ALL-SAVERS CERTIFICATES.—The amendments made by paragraphs (5) and (6) of section 1(c) shall apply to taxable years beginning after December 31, 1984.

(c) REPEAL.—

(1) IN GENERAL.—The provisions of section 1(b) shall apply to taxable years beginning after December 31, 1984.

(2) Application of Code.—The Internal Revenue Code of 1954 shall be applied and administered as if the subsections repealed by section 1(b), and the amendments made by the subsections so repealed, had not been enacted.●

● Mr. D'AMATO. Mr. President, I rise today in support of legislation introduced today by my distinguished colleague from Idaho, Mr. MCCLURE, that is critical to the viability of our economic recovery. This bill will stimulate savings at a time when $200 billion Federal deficits and the Nation's "smokestack" industries require the availability of capital. The accumulation of savings by individuals is needed to assure the continued growth of the economy.

In many ways, the centerpiece of the administration's economic policy is encouraging capital formation, rather than consumption, by individuals and corporations. The President is correct in assuming that if the Nation is to compete abroad, increasing the savings rate is critical. It has also become evident from the past recession that individual and corporate health is linked to the amount of savings accumulated. Those entities that placed a premium on leverage perished as interest rates rose and sales declined.

President Reagan supported major new savings incentives in the Economic Recovery Tax Act of 1981 (ERTA). For individuals, ERTA greatly expanded Individual Retirement Accounts. However, ERTA also mandated that the $200 interest and dividend exclusion ($400 for joint returns) be reduced in 1982 to $100 ($200 for joint returns) and include dividends.

I believe that Congress erred both in not allowing interest income to be excluded from income and in reducing the exclusion for dividends. The Tax Code still provides too few incentives for individuals to save. Unfortunately, emphasis in the tax code is placed on consumption and borrowing. I have long been a supporter of the flat dividend and interest exclusion and I continue to believe that it should be expanded. The middle class must have this savings vehicle.

Congress realized that a savings void was partially created by ERTA. Consequently, a provision of ERTA that takes effect January 1, 1985, established an exclusion for 15 percent of the interest earned up to $3,000 net of borrowing expenses. I supported this provision of ERTA in 1981 after my effort to preserve the $200/$400 exclusion was defeated. However, it has become evident that we need to encourage savings now, not in 1985. The 15-percent net interest exclusion is both too little too late.

The legislation introduced today will help rectify a savings deficiency in part created by ERTA. The bill will move the effective date of the 15-percent net interest exclusion from tax year 1985 to tax year 1983. In addition, dividends will be included in the calculation. This bill will not create another tax dodge for the affluent. The legislation is designed to encourage investment by the middle class.

For the current recovery to be sustained, capital formation must improve. If this is to occur, the middle class must participate to a greater extent. Therefore, I encourage my colleagues on both sides of the aisle to support this important piece of legislation.●

By Mr. THURMOND:

S. 1605. A bill to amend the Internal Revenue Code of 1954 to include structurally unemployed older Americans as members of targeted groups for credit for employment of certain new employees; to the Committee on Finance.

TARGETED JOBS TAX CREDIT

Mr. THURMOND. Mr. President, today I am introducing legislation to amend the Internal Revenue Code of 1954 to make structurally unemployed Americans over the age of 50 eligible for the targeted jobs tax credit.

The targeted jobs tax credit is a program which grants tax credits to businesses that employ certain qualified individuals. Targeted tax credits have proven effective in promoting the employment of disadvantaged youths, rehabilitated individuals, and the chronically unemployed. However, one important group of unemployed has been omitted from this tax credit program—our Nation's older workers.

Tax credits provide incentives to employers to hire and train those individuals who, due to changing technology and other factors beyond their control, lose their jobs. Recent economic conditions and employment trends have brought about an increasing number of older workers who have lost their jobs in industries which are unlikely ever to return to former levels of employment. Mr. President, these older Americans are experiencing extreme hardships. They are untrained for the new jobs and technology of today, yet they are willing to work. They are a productive resource whose wisdom and willingness to work should be cultivated by our Nation. Making these individuals eligible for the targeted tax credit program, as proposed in this bill, will encourage this cultivation, and thus prove beneficial to these older individuals, the employers who hire them, and our Nation as a whole.

Mr. President, I ask unanimous consent that a copy of the bill I am introducing be printed in the RECORD at the conclusion of these remarks.

Also, Mr. President, in behalf of Senator HOLLINGS and myself, I ask unanimous consent that a resolution adopted by the South Carolina House of Representatives relating to this issue be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1605

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) paragraph (1) of section 51(d) of the Internal Revenue Code of 1954 (defining members of targeted groups) is amended—

(1) by striking out "or" at the end of subparagraph (I),

(2) by striking out the period at the end of subparagraph (J) and inserting in lieu thereof ", or", and

(3) by inserting after subparagraph (J) the following new subparagraph:

"(K) a structurally unemployed older American.".

Subsection (d) of Section 51 of such Code is amended—

(1) by redesignating paragraphs (13), (14), (15), and (16) as paragraphs (14), (15), (16), and (17), respectively, and

(2) by inserting after paragraph (12) the following new paragraph:

"(13) Structurally unemployed older American.—The term 'structurally unemployed older American' means any individual who is certified by the designated local agency as—

"(A) having attained the age of 50 on or before the hiring date, and

"(B) being structurally unemployed pursuant to criteria determined by the Secretary after consultation with the Secretary of Labor.".

(c) Clause (ii) of section 51(d)(12)(A) of such Code (defining qualified summer youth employee) is amended by striking out "paragraph (14)" and inserting in lieu thereof "paragraph (15)".

(d) The amendments made by this Act shall apply to individuals hired after the date of the enactment of this Act.

H. 3023

Whereas, the Targeted Jobs Tax Credit (26 U.S.C.A. Sec. 51) is a program that grants businesses that employ certain qualified individuals substantial tax credits for the wages and salaries paid to qualified individuals in the first two years of employment; and

Whereas, the categories of individuals eligible under the program do not include individuals over fifty years of age who are structurally unemployed; and

Whereas, recent economic conditions and employment trends have brought about an increasing number of older workers who have lost their jobs in industries that are unlikely ever to return to former levels of employment; and

Whereas, older workers are a productive resource for South Carolina and the nation as a whole whose reemployment pursuant to the jobs tax credit program will benefit both the workers and employers. Now, therefore, be it

Resolved by the House of Representatives, the Senate concurring, That the United States Congress is memorialized to add structurally unemployed workers over age fifty to those categories of individuals eligible for the targeted jobs tax credit program (26 U.S.C.A. Sec. 51). Be it further

Resolved, That a copy of this resolution be forwarded to each member of the South Carolina Congressional Delegation.

By Mr. TSONGAS (for himself, Mr. PELL, Mr. MELCHER, Mr. INOUYE, and Mr. LEVIN):

S. 1608. A bill to amend the Fair Labor Standards Act of 1938 to provide persons may not be employed at less than the applicable wage under that act; to the Committee on Labor and Human Resources.

ELIMINATION OF DISCRIMINATORY BARRIERS AGAINST BLIND WORKERS

● Mr. TSONGAS. Mr. President, today I am introducing legislation to amend the Fair Labor Standards Act of 1938 to provide that individuals whose only handicap is blindness or a visual impairment may not be employed at less than the applicable minimum wage of that act.

I am introducing this bill to eliminate discriminatory barriers against blind workers by insuring them equitable wage and overtime treatment. Historically, the advancement of individuals who are blind or visually impaired has been obstructed by ill-conceived notions about blindness. Negative attitudes and a lack of understanding have resulted in discrimination and hostility toward many of our Nation's half million blind citizens. This bill would extend coverage of the minimum wage and overtime pay provisions of the Fair Labor Standards Act of 1938 to individuals who have no other handicap except blindness.

The Fair Labor Standards Act establishes an exemption allowing blind workers to be paid at a rate that can be as low as 25 percent of the Federal minimum wage. The exemptions are most commonly in effect in sheltered workshops where one out of every seven blind individuals is employed. I believe this legislation is essential if we are to guarantee equality and opportunity to our visually handicapped citizens and eliminate the inequitable treatment of blind workers in every sector of employment.

Approximately 20 sheltered workshops throughout the Nation actually do pay their blind workers at least the minimum wage. Further, nearly 50 percent of blind individuals who have no other handicap also earn the minimum wage. This bill would extend total to all blind and visually impaired citizens who are not multihandicapped the coverage of the minimum wage and overtime pay provisions of the Fair Labor Standads Act.

Current law permits the appropriation of a subminimum wage to workers with handicaps which are purported to limit productivity. Although it is available, the option of the minimum wage has rarely been used. A notable exception is the 20 sheltered workshops throughout the Nation where more than 5,000 sightless workers are engaged in producing a host of individual products and appliances. In turn, the workshops market these products for healthy profits and pay their workers at least the minimum wage. The Fair Labor Standards Act should be amended to eliminate a social injustice which condones enormous profits while blind workers are asked to subsist upon less than the minimum wage.

In the past, the blind were forced to fight for access into the job market. Today, they are faced with a different type of discrimination which this bill would eliminate—economic discrimination. The exemption contained in the Fair Labor Standards Act providing for 25 percent of the minimum wage was enacted in 1938 as a component of the original law, and was only modified slightly 16 years ago. The exclusion of blind workers from minimum wage protection represents a denial to thousands of individuals of the opportunity to be paid a wage which barely compensates for their productive efforts.

The distinction between multihandicapped individuals who are blind and individuals who have no other physical impairments is important. The intent of the Fair Labor Standards Act provision was to provide structured employment for individuals whose physical limitations restricted productivity and thus gainful employment. The payment was to be commensurate with performance. We understand this intent and believe that it is not without merit; however, thousands of blind workers can and do successfully maintain acceptable levels of productivity and still receive subminimum wages.

There are numerous misconceptions about the impact of this legislation. One erroneous notion suggests that the removal of subminimum wages will be harmful to the blind because blind persons who receive higher wages will lose social security disability insurance (SSDI) payments and supplemental security income (SSI) benefits. This is not, however, necessarily the case. The SSI eligibility rules for the blind permit earnings well above the minimum wage before benefits are interrupted or decreased. The SSDI rules are somewhat more prohibitive; but even so, in 1983, blind individuals will be permitted to earn $6,500 before SSDI benefits can be affected. Furthermore, the National Federation of the Blind and thousands of blind individuals have accepted this restriction and have determined that it is better to earn a living than to simply subsist from the earnings of others. This decision should command the respect of us all.

Mr. President, this bill will promote economic equality for the blind. State investigations and the GAO have revealed blatent discriminatory practices which exist in sheltered workshops. Disclosures confirmed such abuses as low wages, corporate profits at the expense of underpaid labor, poor management, and a total emphasis on the operation of business and not the needs of the workers. In their present roles, some shops do not provide rehabilitation for workers; rather, their sole purpose is production with blind workers on the payroll as cheap labor.

The public has heard a great deal about the need to put America back to work; we should demonstrate our support for this concept. There are thousands of sightless workers who can become a viable part of the American work force. This legislation is critical to that effort. The blind and the visually impaired only desire the opportunity to earn a living for themselves rather than rely on the earnings of others. We owe it to them to provide the opportunity.

Mr. President, I ask that this bill be printed in the RECORD in its entirety.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1608

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 14(c) of the Fair Labor Standards Act of 1938 (29 U.S.C. 214(c)) is amended (1) by striking out "(2) and (3)" in paragraph (1) an inserting in lieu thereof "(2), (3), and (4)" and (2) by adding after paragraph (3) the following:

"(4) No order, regulation, or certificate may be issued by the Secretary under paragraph (1), (2), or (3) of this subsection with respect to the employment of individuals whose sole handicap is blindness or visual impairment".●

By Mr. GARN (for himself and Mr. PROXMIRE) (by request):

S. 1609. A bill to authorize depositary institution holding companies to engage in activities of a financial nature, insurance underwriting and brokerage, real estate development and brokerage, and certain securities activities including dealing in, underwriting, and purchasing Government and municipal securities, sponsoring and managing investment companies and underwriting the securities thereof, to provide for the safe and sound operation of depository institutions, to amend the Federal Reserve Act, the Home Owner's Loan Act of 1933, and the Bank Service Corporation Act, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

FINANCIAL INSTITUTIONS DEREGULATION ACT

● Mr. GARN. I am introducing, by request of the administration (as transmitted by Treasury Secretary Regan), a bill to establish a revised Federal statutory framework under which bank and thrift holding companies would operate.

The general thrust of the legislation is to expand the range of financial services which may be offered by such organizations. For example, the bill authorizes bank and thrift holding companies to underwrite municipal revenue bonds, sponsor and manage mutual funds, underwrite and sell insurance products, and develop, invest in, and sell real estate.

The proposal has been reviewed by the Federal Reserve Board and, by letter dated July 5, 1983, Chairman Volcker has informed me that the Board supports the bill. Chairman Volcker has also indicated that he hopes that "Congress could act quickly on this comprehensive legislation with a view to completing congressional action by the end of this year."

Modeled after last Congress Treasury proposal, S. 2490, this bill would provide depository institutions with expanded powers so long as such powers are exercised through separate holding company subsidiaries. The purpose behind this approach is to insulate banking subsidiaries from affiliates engaging in activities which may be riskier or, if not insulated, would raise questions of competitive equity or potential conflicts of interest.

The comprehensive nature of the legislation is apparent from some of the statutes it amends—the Glass-Steagall Act, the Federal Reserve Act, the Bank Holding Company Act, the Securities and Exchange Act, the Savings and Loan Holding Company Act, the Home Owners Loan Act, and the Bank Service Corporation Act. Although comprehensive, many of the issues dealt with in the legislation have been considered during the past several years and reflect changes which have occurred in the financial services industry. Municipal revenue bond underwriting and mutual fund sponsorship by banks were included in legislation (S. 1720) I introduced last Congress but were not part of the final Garn-St Germain Act. Although not in the proposed legislation, issues such as direct real estate investment by depository institutions and real estate and securities brokerage by depository institutions have been discussed in the committee during the past few years. Moreover, many such issues have already been dealt with by regulators and State legislatures through the establishment of laws and regulations expanding the types of financial services which depository institutions may offer.

While I agree with parts of the administration's proposal and reserve judgment on others, I feel strongly that Congress should address the issues raised by the bill in the near term and not continue to permit financial services innovations to be solely the province of those who discover the most effective statutory loopholes or favorable regulatory environment.

During the past few months, the Banking Committee has held 13 days of oversight hearings on the financial services industry. Those hearings, with scores of witnesses, hours of testimony, and countless pages of statements, serve to underline the changes in our financial system caused by advanced technology and sophisticated consumers. People want personal services and safe investments, but they also want to maximize their investment returns. Such consumer demands resulted in money market funds, the elimination of Regulation O, the creation of money market deposit accounts, and the continued evolution of one-stop financial shopping offered by different types of financial organizations.

The administration's proposal attempts to impose an equitable and rational framework within which all depository organizations may compete by redefining basic terms and powers. For example, like the Federal Reserve's moratorium bill, it would stop the proliferation of nonbank banks by redefining "bank" for the purposes of the Bank Holding Company Act. It also equates savings and loan holding companies by generally limiting the former's powers to those of the latter. To some, the bill may not achieve its objectives; but it does represent a tangible course of action which Congress may consider in developing a statutory response to the changes in the financial system.

In focusing broadly on the financial services industry, I believe the administration's bill approaches the issues correctly. It seeks to provide lasting answers instead of imposing short-term solutions. The latter is evident in the moratorium bill developed by the

Federal Reserve; although well-intended, I am concerned that such an approach would lead to continued inaction and only result in increased searches for loopholes by competing financial institutions. In my opinion, Congress must proceed to consider legislation designed to insure the integrity and competitiveness of our financial system.

In order that this process continue, the Banking Committee will have its first day of hearings on the administration's bill, as well as on the nonbank bank moratorium bill, on Monday, July 18, 1983. The witness on that day will be Treasury Secretary Regan. Other hearings will be scheduled in the near future.

In view of the general interest in this matter, I request unanimous consent that the bill, the section-by-section analysis, and the letters from Secretary Regan and Chairman Volcker be printed in full in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1609

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SEC. 1. This Act may be cited as the "Financial Institutions Deregulation Act".

AMENDMENTS TO THE BANKING ACT OF 1933

SEC. 2. Section 20 of the Banking Act of 1933, as amended (12 U.S.C. 377), is hereby amended by adding the following new paragraph at the end of the first paragraph of such section: "Notwithstanding any other provision of this section, a member bank may be affiliated in any manner described in subsection (b) of section 221a of this title with a depository institution securities affiliate as defined in section 2(j) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(j)).".

SEC. 3. Section 32 of the Banking Act of 1933, as amended (12 U.S.C. 78), is hereby amended by adding the following sentence at the end of the first paragraph of such section: "Notwithstanding any other provision of this section, an officer, director, or employee of any member bank may serve at the same time as an officer, director or employee of any of its depository institution securities affiliates. The term 'depository institution securities affiliate' shall have the meaning ascribed to it in section 2(j) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(j)).".

AMENDMENTS TO THE SECURITIES ACT OF 1933

SEC. 4. Section 4 of the Securities Act of 1933, as amended (15 U.S.C. 77d), is hereby amended adding a new paragraph (7) at the end thereof:

"(7) transactions involving offers or sales of equity securities, in connection with the acquisition of a bank by a company under the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841 *et seq.*), or in connection with the acquisition of an insured institution by a company under the Savings and Loan Holding Company Amendments of 1967, as amended (12 U.S.C. 1730a), if such acquisition occurs solely as part of a reorganization in which a person or group of persons exchange their shares of a bank or insured institution for shares of a newly formed bank holding company or savings and loan holding company and receive, after such reorganization, substantially the same proportional share interest in the holding company as they held in the bank or insured institution, except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under state law.".

AMENDMENTS TO THE SECURITIES EXCHANGE ACT

SEC. 5. Subparagraphs (i), (ii) and (iii) of paragraph (34)(A) of subsection 3(a) of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c(a)(34)(A)), are each hereby amended by inserting immediately before the semicolons at the end thereof, the words, "other than depository institution securities affiliate as defined in Section 2(j) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(j)) or as defined in Section 408(a)(1)(K) of the National Housing Act (12 U.S.C. 1730a(a)(1)(K))".

SEC. 6. Paragraph (b)(1) of Section 15B of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78o-4(b)(1)), is hereby amended by striking the words "subsidiaries" in parts (B) and (C) thereof and replacing it with the word, "affiliates".

AMENDMENTS TO THE BANK HOLDING COMPANY ACT

SEC. 7. Section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841), is hereby amended—

(1) by amending subsection (c) to read as follows:

"(c) 'Bank' means (1) an 'insured bank' as that term is defined in Section 1813(h) of this title; (2) any institution that is eligible to become an insured bank under Section 1815 of this title; or (3) any institution organized under the laws of the United States, any State of the United States, the District of Columbia, any territory of the United States, Puerto Rico, Guam, American Samoa or the Virgin Islands, that accepts deposits that the depositor may withdraw by check or similar means for payment to third parties and is engaged in the business of making commercial loans. The term 'bank' does not include (A) any foreign bank having an insured branch; (B) an insured institution; (C) any organization operating under Section 25 or Section 25(a) of the Federal Reserve Act; or (D) any organization that does not do business in the United States except as an incident to its activities outside the United States."; and

(2) by inserting after subsection (i) the following new subsections:

"(j) The term 'depository institution securities affiliate' means any corporation that (a) is engaged in the United States in one or more of the activities authorized pursuant to subsection 4(c)(15) of this Act, and (b) is a broker or dealer within the meaning of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c(a)(4) and (5)), or an investment adviser within the meaning of the Investment Advisers Act of 1940, as amended (15 U.S.C. 80b-2(11)). For purposes of this chapter, a corporation engaged in any such activities shall be deemed to be a depository institution securities affiliate only so long as it is a bank holding company or is owned or controlled by a bank holding company.

"(k) For purposes of this chapter—

"(1) The term 'depository institution holding company' means bank holding company;

"(2) The term 'depository institution' means bank; and

"(3) The terms 'savings and loan holding company' and 'insured institution' have the meanings ascribed to them in Section 1730a(a)(1) of this title.".

SEC. 8. Subsection 3(a) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1842(a)), is hereby amended by adding the following immediately preceding the period at the end of the second sentence of such subsection: "; or (c) with 30 days prior notification to the Board, the acquisition by a company of control of a bank in a reorganization in which a person or group of persons exchange their shares of the bank for shares of a newly formed bank holding company and receive, after such reorganization, substantially the same proportional share interest in the holding company as they held in the bank except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under state law, provided that, immediately following such acquisition, the bank holding company meet the capital and other financial standards prescribed by the Board by regulation for such a bank holding company and the holding company does not engage in any activities other than those of banking or managing and controlling banks. In promulgating regulations pursuant to this subsection, the Board shall not require more capital for the subsidiary bank immediately following the reorganization than is required for a similarly sized bank that is not a subsidiary of a bank holding company.".

SEC. 9. Subsection 4(a)(2) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(a)(2)), is hereby amended to read as follows:

(1) by amending subparagraph (B) of such subsection to read as follows:

"(B) those permitted under paragraphs (8) (except for those of an insured institution), (15) and (16) of subsection (c) of this Section subject to all the conditions and requirements specified in each respective paragraph or in any order or regulation issued by the Board under such paragraphs"; and

(2) by adding the following additional proviso at the end of such subsection:

"Provided further, (I) That the two-year period referred to in this paragraph shall not apply to a company that becomes a bank holding company as a result of enactment of the Financial Institutions Deregulation Act and that acquired a bank between July 1, 1983, and the effective date of such Act; and (II) That a company that becomes a bank holding company as a result of the enactment of the Financial Institutions Deregulation Act, and that controlled an insured bank on July 1, 1983, may engage in any activity in which it was lawfully engaged, directly or through a subsidiary, on July 1, 1983, and in which it has been engaged continuously since July 1, 1983, provided that any activities authorized for bank holding companies may not be expanded and any additional activities may not be commenced except in accordance with the requirements, conditions and limitations applicable to bank holding companies. The authority conferred by the preceding clause (II): (a) shall terminate at such time as (1) any covered bank holding company acquires control of an additional bank or an insured institution, (2) its existing subsidiary bank commences accepting deposits that the depositor has a legal right to withdraw on demand and engages in the business of making commercial loans, or (3) any covered bank holding company commences, directly or through a subsidiary, after July 1, 1983, any additional activities, other than those

activities authorized pursuant to this Act (except for the acquisition of an insured institution), in which it was not engaged on July 1, 1983; and (b) may be terminated by the Board by order, after opportunity for hearing, if it determines, having due regard to the purposes of this chapter, that such action is necessary to prevent conflicts of interests or unsound banking practices or is in the public interest.".

SEC. 10. Paragraph 8 of subsection 4(c) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(8), is hereby amended to read as follows:

"(8)(A) in accordance with the limitations and requirements contained in subparagraph (B) of this paragraph, shares of any insured institution or shares of any company the activities of which consist of:

"(i) activities that the Board has determined (by order or regulation) to be closely related to banking or managing or controlling banks or (by regulation) to be of a financial nature;

"(ii) insurance underwriting or brokerage; or

"(iii) real estate investment, development or brokerage; provided that, in the case of real estate investment and development, the percentage of a bank holding company's capital that may be devoted to this activity shall not exceed 5 per centum of such company's primary capital.

"(B)(i) No bank holding company shall engage in any activity authorized under this paragraph either *de novo* or by an acquisition in whole or in part of a going concern, unless the Board has been given sixty days prior written notice of such proposal and, within such period, the Board has not issued an order (1) disapproving the proposal or (2) suspending the time period in accordance with clause (iii) below.

"(ii) An acquisition may be made prior to the expiration of the disapproval period if the Board issues a written notice of its intent not to disapprove the action. The Board may provide for no notice under this paragraph or notice for a shorter period of time with respect to particular activities. No notice under this paragraph is required in the event a bank holding company establishes *de novo* an office to engage in any activity previously authorized for such a bank holding company under this paragraph or changes the location of an office engaged in such activity.

"(iii) The notice submitted to the Board shall contain such information as the Board shall prescribe by regulation or by specific request in connection with a particular notice; provided, however, that the Board may only require such information as may be relevant to the nature and scope of the proposed activity and to the Board's evaluation of the criteria provided for in clause (iv) hereof. In the event the Board requires additional relevant information beyond that provided in the notice submitted pursuant to this paragraph, the Board may by order suspend the time period provided in clause (i) hereof until it has received such additional relevant information, and the activity that is the subject of the notice may be commenced within 30 days of the date of such receipt unless the Board issues a disapproval order as provided in clause (i) hereof. Such a suspension order is reviewable under section 9 of this Act.

"(iv) In connection with a notice under this paragraph, the Board may consider the following criteria:

"(I) the managerial resources of the companies involved;

"(II) the adequacy of their financial resources, including their capital, giving consideration to the financial resources and capital of others engaged in similar activities; provided that the Board shall not require a higher level of capital for any activity subject to Federal or state regulation than would be required by the applicable regulatory authority for a company engaged in such activity, unless the Board shall find that particular circumstances warrant a higher level of capital;

"(III) any practice or arrangement that may adversely affect the independence or impartiality of an affiliated bank in the provision of credit or other services or the terms on which such credit and services are made available, or the availability of such credit; and

"(IV) any material adverse effect on the safety and soundness or financial condition of an affiliated bank or banks.

"(v) The Board shall by order set forth the reasons for any disapproval under this paragraph. Inaction on any notice or a Board order determining not to disapprove a proposal to engage in an activity that has previously been authorized by regulation under this paragraph shall be final and shall not be subject to judicial review under this Act or in any other manner; provided, however, that any bank holding company may obtain judicial review pursuant to section 9 of this Act of and Board order not to disapprove a notice under this paragraph if such order contains restrictions or conditions.

"(vi) The Board shall, within one hundred and eighty days of enactment of the Financial Institutions Deregulation Act and from time to time thereafter, promulgate regulations under this paragraph designating particular activities that are closely related to banking or of a financial nature. A bank holding company may petition the Board to determine by regulation that a particular activity is closely related to banking or of a financial nature. The Board may by regulation prescribe limitations on the conduct of any activity or activities authorized under paragraphs (8), (15) and (16) of this subsection consistent with the criteria in subparagraph (B)(iv) hereof and with safe and sound financial practices. In administering this paragraph, the Board shall promote competition between bank holding companies and all other companies engaged in activities of a financial nature or closely related to banking.

"(vii) the regulation required under clause (vi) of this paragraph shall include any activity determined by the Board by regulation prior to enactment of this Act to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. The Board shall not designate as an activity of a financial nature or closely related to banking within the meaning of this paragraph any activity that is described in paragraph (15) of this subsection or that is prohibited to a member bank or an affiliate of a member bank under sections 16 (12 U.S.C. 24 (Seventh)) or 20 (12 U.S.C. 377) of the Banking Act of 1933, as amended.".

SEC. 11. Subsection 4(c) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)), is hereby amended by deleting the penultimate sentence thereof and by adding a new paragraph (15) as follows:

"(15) shares of any depository institution securities affiliate engaged in activities in accordance with the limitations contained in this paragraph:

"(i) No depository institution holding company that establishes or acquires any depository institution securities affiliate pursuant to this paragraph shall, after one year from the date on which any such depository institution securities affiliate first engages in any of the activities authorized under subparagraph (iii) of this paragraph, permit any depository institution controlled by such depository institution holding company to engage, directly or through a subsidiary, in the United States in any of the activities authorized under such subparagraph (iii) of this paragraph or any of the following activities, which are authorized pursuant to paragraph Seven of Section 5136 of the Revised Statutes of the United States, as amended (12 U.S.C. 24): dealing in and underwriting obligations of the United States, general obligations of any state of the United States or any political subdivision thereof and other obligations listed in paragraph Seven of such Section 5136 and purchasing and selling securities and stock as agent. For purposes of this paragraph, the Board may, by regulation or order, determine other securities or securities-related activities in which depository institutions may not engage. No rule, regulation or order of the Board, however, shall prohibit a depository institution from engaging in those securities or securities-related activities that are necessary or incidental to the financing of such depository institution or the investment of its funds. In the event that a depository institution holding company terminates all of the activities specified in subparagraph (iii) of this paragraph of its depository institution securities affiliate, any depository institution subsidiary of such holding company may conduct, directly or through a subsidiary, any securities or securities-related activities that it is authorized by law to conduct.

"(ii) Any depository institution securities affiliate may conduct any securities or securities-related activity that a national banking association, as such term is used in Section 21 of this title, is not prohibited from conducting.

"(iii) In addition to the activities referred to in subparagraphs (i) and (ii) of this paragraph, such depository institution securities affiliate may—

"(A) deal in and underwrite all obligations issued or guaranteed by or on behalf of a state or any political subdivision thereof or any agency or instrumentality of either of the foregoing, except industrial development bonds as defined in section 103(b)(2) of the Internal Revenue Code of 1954, as amended; provided, however, that depository institution securities affiliates may deal in and underwrite such industrial development bonds, the interest on which is exempt from Federal income tax under section 103(a) of the Internal Revenue Code of 1954, as amended, if: (i) a state, territory, possession of the United States, or any political subdivision of the foregoing, or the District of Columbia pledges its full faith and credit for the payment of all principal and interest on such bonds or (ii) the issuer, or the state or local governmental unit on behalf of which the industrial development bonds were issued, is considered the sole owner, for Federal income tax purposes, of the facility with respect to which financing is to be provided from the proceeds of such industrial development bonds;

"(B) organize, sponsor, operate, and control an investment company, as such term is defined in Section 3 of the Investment Company Act of 1940, as amended;

"(C) render investment advice to: (1) an investment company as described in sub-

paragraph (B) above; and (2) any investment company other than a closed-end investment company;

"(D) underwrite, distribute, and sell securities of any investment company, as such terms are defined in Section 3 of the Investment Company Act of 1940, as amended.

"(iv) a bank holding company seeking to acquire shares of a depository institution securities affiliate or engage directly in securities or securities-related activities pursuant to this paragraph shall comply with the notice and other requirements of clauses (i) through (vi) of paragraph (8)(B) of this subsection.".

SEC. 12. Section 4(c) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)), is hereby amended by adding new paragraph (16) to read as follows:

"(16) shares of any company engaged in any activity in which a multiple savings and loan holding company was authorized by law or regulation to engage directly on July 1, 1983, provided, however, that the activities of real estate investment and development may only be engaged in within the limitations of clause (iii) of subparagraph 4(c)(8)(A) of this Act; and provided further that any conditions and limitations applicable to a savings and loan company with respect to such activities shall likewise be applicable to such a bank holding company, except that a bank holding company seeking to acquire shares of such a company pursuant to this paragraph shall comply with the notice and other requirements of clauses (i) through (vi) of paragraph (8)(B) of this subsection and except that the Board may by regulation prohibit any bank holding company from engaging in such activities or limit their conduct.".

SEC. 13. Subsection 5(c) of the Bank Holding Company Act, as amended (12 U.S.C. 1844(c)), is hereby amended to read as follows: "(c)(1) The Board from time to time may require reports under oath, in such scope and detail as it may determine, of a bank holding company and each subsidiary thereof to keep the Board informed as to whether such companies are complying with the provisions of this chapter and regulations and orders issued thereunder.

"(2) Except where the Board determines that a lesser reporting requirement is appropriate, the Board shall accept in fulfillment of the reporting requirements established by this subsection for nonbank subsidiaries separate reports consisting of (A) for companies subject to the reporting requirements of section 17 of the Securities Exchange Act of 1934 (15 U.S.C. 78q), the same information required to be submitted to the Securities and Exchange Commission under such section (and the rules and regulations thereunder) at the same time such information is so submitted; and (B) for all other companies, the same information as would be required to be submitted under section 13 of the Securities Exchange Act of 1934 (15 U.S.C. 78m) (and the rules and regulations thereunder) by companies subject to the reporting requirements of such Act, that are engaged in the same or similar lines of business, not more frequently than quarterly. In particular circumstances, the Board may require additional information in order to fulfill its responsibilities under this Act.

"(3) The Board may make examinations of each bank holding company and each subsidiary thereof, the cost of which may be assessed against, and paid by, such holding company. The Board shall, however, insofar as possible, minimize the scope and frequency of examinations of nonbank subsidiaries of a bank holding company by utilizing, where feasible, reports of applicable regulatory agencies or other bodies public or private, and by directing, to the extent feasible, the focus of such examinations to the activities or financial condition of such nonbank subsidiaries that may have a materially adverse effect on the safety and soundness or financial condition of a subsidiary bank of the bank holding company.".

SEC. 14. Section 7 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1846), is hereby amended by striking out the period at the end thereof and inserting in lieu thereof ", provided, however, that no state shall prohibit the affiliation of a national banking association, as such term is used in section 21 of this title, with a company engaged only in one or more of the activities described in paragraphs (8), (15), and (16) of subsection 4(c) of this Act.".

AMENDMENTS TO THE FEDERAL RESERVE ACT

SEC. 15. (a) The Federal Reserve Act is amended by adding new Section 23B immediately following Section 23A (12 U.S.C. 371c) thereof to read as follows:

"SEC. 23B. RESTRICTIONS ON TRANSACTIONS WITH AFFILIATES.—(a) A member bank and its subsidiaries may engage in any of the following transactions, only on terms and under circumstances, including credit standards, that are substantially the same as, or at least as favorable to such bank or its subsidiary as those prevailing at the time for comparable transactions with or involving other nonaffiliated companies or, in the absence of comparable transactions, those terms and circumstances that in good faith would be offered to, or would apply to nonaffiliated companies:

"(1) any covered transaction, as defined in section 23A, with an affiliate;

"(2) the sale of securities or other assets, including assets subject to an agreement to repurchase, to an affiliate;

"(3) the payment of money or the furnishing of services to an affiliate, under contract, a lease, or otherwise;

"(4) any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or any other person; or

"(5) any transaction or series of transactions with a third party, (A) if an affiliate has a financial interest in the third party, or (B) if an affiliate is a participant in such transaction or series of transactions.

For the purposes of this subsection, any transaction by a member bank with any person shall be deemed to be a transaction with an affiliate of such bank to the extent that the proceeds of the transaction are used for the benefit of, or transferred to, such affiliate.

"(b) A member bank and the affiliates of such bank shall not publish any advertisement or enter into any agreement stating or suggesting that the bank shall in any way be responsible for the obligations of its affiliates; however, a member bank and its affiliates may use similar names.

"(c) A member bank and any subsidiary of such bank—

"(1) shall not purchase as fiduciary any securities or other assets from any affiliate unless such purchases are permitted under the instrument creating the fiduciary relationship, by court order, or by law of the jurisdiction under which the trust is administered; and

"(2) whether acting as principal or fiduciary, shall not knowingly purchase or otherwise acquire, during the existence of any underwriting or selling syndicate, any security a principal underwriter of which is an affiliate of such bank; except that this prohibition shall not apply where the purchase of such securities has been approved, prior to the time at which such securities are initially offered for sale to the public, by a majority of the directors of the bank who are not officers or employees of the bank or any affiliate thereof.

For the purpose of this paragraph, the term 'security' means a 'security' as defined in section 3(a)(10) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(12)); and the term 'principal underwriter' means any underwriter who, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer; (B) acting alone or in concert with one or more persons, initiates or directs the formation of an underwriting syndicate; or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution.

"(d) For the purpose of the section—

"(1) the term 'affiliate' means an 'affiliate' as defined in Section 23A of the Federal Reserve Act (12 U.S.C. 371c) excluding a bank; and

"(2) the terms 'bank', 'subsidiary', 'person', and 'security' (other than security as used in subsection (c)) have the same meanings given to them in Section 23A of the Federal Reserve Act (12 U.S.C. 371c).".

"(e) The Board may prescribe rules and regulations to administer and carry out the purposes of this section, including rules or regulations to (1) further define terms used in this section; (2) exempt transactions or relationships from the requirements of this section; or (3) exclude from the definition of 'affiliate' in this section any subsidiary of a bank holding company, if the Board finds such exemptions or exclusions to be in the public interest and consistent with the purposes of this section.".

(b) Section 18(j) of the Federal Deposit Insurance Act (12 U.S.C. 1828(j)) is hereby amended—

(1) by inserting "and section 23B" after "section 23A" at each place it appears in paragraph (1); and

(2) by inserting ", 23B," after "23A" in paragraph (3)(A).

AMENDMENTS TO THE INVESTMENT COMPANY ACT OF 1940

SEC. 16. (a) Subsection 17(f) of the Investment Company Act of 1940, as ameded (15 U.S.C. 80a-17(f)), is hereby amended by adding after the words "unit investment trusts": "provided, however, that any registered management company which is organized, sponsored, operated or controlled by, or which receives investment advice from, any depository institution securities affiliate, as defined in section 2(j) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841(j)) or in subsection (a)(1)(K) of the Savings and Loan Holding Company Act Amendments of 1967, as amended (12 U.S.C. 1730a(a)(1)(K), may place and maintain its securities and similar investments in the custody of a bank which is affiliated with such depository institution securities affiliate only with the prior approval of the Commission.".

(b) Subsection 26(a)(1) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-26(a)(1)), is hereby amended by adding after the words "so published);": "provided, however, that, except with the prior approval of the Commission, it shall

be unlawful for such trust indenture, agreement of custodianship, or other instrument to designate as trustee or custodian any bank which is affiliated with a depository institution securities affiliate, as defined in the Bank Holding Company Act of 1956, as amended 12 U.S.C. 1841(j)) or in subsection (a)(1)(K) of the Savings and Loan Holding Company Act Amendments of 1967, as amended (12 U.S.C. 1730a(a)(1)(K), which organizes, sponsors, operates or controls such registered unit investment trust.".

(c) Subsection 27(c)(2) of the Investment Company Act of 1940, as amended (15 U.S.C. 80a-27(c)(2)), is hereby amended by adding after the words "trust indentures of unit investment trusts": "provided, however, that, except with the prior approval of the Commission, it shall be unlawful to deposit such proceeds with any bank which is affiliated with a depository institution securities affiliate, as defined in section 2(j) of the Bank Holding Company Act of 1956 as amended (12 U.S.C. 1841(j)) or in subsection (a)(1)(K) of the Savings and Loan Holding Company Act Amendments of 1967, as amended (12 U.S.C. 1730a(a)(1)(K)), which organizes, sponsors, operates, controls or renders investment advice to such registered investment company.".

AMENDMENTS TO BANK HOLDING COMPANY ACT AMENDMENTS OF 1970

SEC. 17. Section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972, *et seq.*) is hereby amended by adding new subsection (i) at the end thereof to read as follows:

"ACTIONS AUTHORIZED TO BE COMMENCED BY TRADE ASSOCIATIONS

"Any action for injunctive relief that may be commenced by any person pursuant to Section 1976 of this title, may be commenced on the behalf of such person by any trade association of which such person is a member, provided that any such action commenced by a trade association shall be subject to the same requirements, limitations, and conditions as would be applicable had such action been commenced by any such person pursuant to section 1976 of this title.".

AMENDMENTS TO THE SAVINGS AND LOAN HOLDING COMPANY AMENDMENTS OF 1967

SEC. 18. Subsection (a)(1) of the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. 1730a(a)(1)) is hereby amended by adding the following new subparagraphs (K) and (L) after subparagraph (J) of such subsection:

"(K) The term 'depository institution securities affiliate' means any corporation that (a) is engaged in the United States in one or more of the activities authorized for depository institution securities affiliates pursuant to subsection 4(c)(15) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(15)) and subject to the limitations specified therein, and (b) is a broker or dealer within the meaning of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78c(a)(4) and (5)), or an investment adviser within the meaning of the Investment Advisers Act of 1940, as amended (15 U.S.C. 80b-2(11)). For purposes of this chapter, a corporation engaged in any such activities shall be deemed to be a depository institution securities affiliate only so long as it is owned or controlled by a savings and loan holding company. For purposes of applying paragraph 4(c)(15) of the Bank Holding Company Act to this chapter—

"(i) the term "depository institution holding company" means savings and loan holding company; and

"(ii) the term "depository institution" means "insured institution."

"(L) the terms "bank holding company" and "bank" shall have the meanings ascribed to them in section 2 of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841).".

SEC. 19. Subsection (c) of the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. 1730a(c)) is hereby amended to read as follows:

"(c)(1) Except as otherwise provided in this subsection, no savings and loan holding company (except a unitary savings and loan holding company that acquires an insured institution pursuant to subsection (m) of this section) or subsidiary thereof which is not an insured institution shall—

"(A) for or on behalf of such subsidiary insured institution, engage in any activity or render any service for the purposes or with the effect of evading law or regulation applicable to such insured institution; or

"(B) commence or continue, after two years from the date as of which it becomes a savings and loan holding company, any business activity other than those specified in paragraph (2) of this subsection except that such two period shall not apply to any company that acquires an insured institution between July 1, 1983, and the effective date of the Financial Institutions Deregulation Act. *Provided*, That any company that becomes subject, as a result of the Financial Institutions Deregulation Act, to the prohibitions of this subparagraph and that controlled an insured institution prior to July 1, 1983, may engage in any activity in which it was lawfully engaged, directly or through a subsidiary, on July 1, 1983, and in which it has been engaged continuously since July 1, 1983, provided that any activities authorized for savings and loan holding companies may not be expanded and any additional activities may not be commenced except in accordance with the requirements, conditions and limitations applicable to savings and loan holding companies. The authority conferred by the preceding proviso, (A) shall terminate at such time as any covered savings and loan holding company (i) acquires a bank, or its subsidiary insured institution fails to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code of 1954, or (ii) commences, directly or through a subsidiary, after July 1, 1983, any additional activities, other than those authorized pursuant to this Act to be permissible for savings and loan holding companies (except for the acquisition of a bank), in which it was not engaged on July 1, 1983, or (B) may be terminated by the Corporation, after opportunity for hearing, if it determines, having due regard for the purposes of this chapter, that such action is necessary to prevent conflicts of interests, unsound practices, or in the public interest.

"(2) The prohibitions of subparagraph (1)(B) of this subsection shall not apply to the following business activities:

"(A) furnishing or performing management services for a subsidiary insured institution;

"(B) conducting an insurance agency or escrow business;

"(C) holding or managing or liquidating assets owned or acquired from a subsidiary insured institution;

"(D) holding or managing properties used or occupied by a subsidiary insured institution;

"(E) acting as trustee under deed of trust;

"(F) acquiring shares of any bank and engaging in one or more of the following activities subject to the limitations, conditions, and requirements specified in paragraph (3) of this subsection: (i) activities determined by the Board of Governors of the Federal Reserve System (by regulation) to be of a financial nature or closely related to banking or managing or controlling banks, provided, however, that the Corporation may (by regulation) prohibit or limit any such activity for savings and loan holding companies; (ii) activities in which multiple savings and loan holding companies were authorized (by regulation) to engage directly on July 1, 1983 provided, however, that in the case of real estate investment and development, savings and loan holding companies may only maintain investments lawfully held on July 1, 1983, and make additional investments within the limitations of clause (iv) hereof; (iii) engaging in either or both the activities of insurance underwriting and brokerage; (iv) engaging in one or more of the activities of real estate investment, development or brokerage, provided that, in the case of real estate investment and development, the percentage of a savings and loan holding company's capital that may be devoted to this activity shall not exceed 5 per centum of such company's primary capital; and (v) engaging in the activities of a depository institution securities affiliate in accordance with the terms under which such activity may be conducted pursuant to the provisions of paragraph (15) of subsection 4(c) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(15)).

"(G) acquiring shares of any company which is an export trading company, as that term is defined in paragraph (14) of subsection 4(c) of the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1843(c)(14)), and subject to all the requirements, conditions, and limitations of such paragraph (14) as if the acquiring or establishing savings and loan holding company were a bank holding company within the meaning of that paragraph, except that any notice required to be given pursuant to that paragraph shall be given to the Corporation, which shall have the same authority with respect to such notice procedure for savings and loan holding companies as the Board of Governors of the Federal Reserve System has pursuant to such paragraph (14).

"(3)(A) No savings and loan holding company shall engage, either de novo or by an acquisition, in whole or in part, of a going concern, in any activity authorized under subparagraph 2(F) of this subsection unless the Corporation has been given sixty days' prior written notice of such proposal and, within such period, the Corporation has not issued an order disapproving the proposal or extending for up to an additional thirty days the period within which such a disapproval may be issued.

"(B) An acquisition may be made prior to the expiration of the disapproval period if the Corporation issues a written notice of its intent not to disapprove the action. The Corporation may provide for no notice under this paragraph or notice for a shorter period of time with respect to particular activities. No notice under this paragraph is required in the event a savings and loan holding company establishes de novo an office to engage in any activity previously authorized for such savings and loan holding company under this paragraph or changes the location of an office engaged in such activity.

"(C) The notice submitted to the Corporation shall contain such information as the Corporation shall prescribe by regulation for the notice or by specific request in connection with a particular notice; provided, however, that the Corporation may only require such information as may be relevant to the nature and scope of the proposed activity and to the Corporation's evaluation of the criteria provided for in subparagraph (D) hereof. In the event the Corporation requires additional relevant information beyond that provided in the notice submitted pursuant to this paragraph, the Corporation may by order suspend the time period provided in subparagraph (A) of this paragraph until it has received such additional relevant information, and the activity that is the subject of the notice may be commenced within 30 days of the date of such receipt unless the Corporation issues a disapproval order as provided in such subparagraph (A). Such suspension order is reviewable under subsection (k) of this Section.

"(D) In connection with a notice under this paragraph, the Corporation may consider the following criteria:

"(i) the managerial resources of the companies involved;

"(ii) the adequacy of their financial resources, including their capital, giving consideration to the financial resources and capital of others engaged in similar activities; provided that the Corporation shall not require a higher level of capital for any activity subject to Federal or state regulation than would be required by an applicable regulatory authority for a company engaged in such activity, unless the Corporation shall find that particular circumstances warrant a higher level of capital;

"(iii) any practice or arrangement that may adversely affect the independence or impartiality of an affiliated insured institution in the provision of credit or other services or the terms on which such credit and services are made available, or the availability of such credit; and

"(iv) any material adverse effect on the safety and soundness or financial condition of an affiliated insured institution.

"(E) The Corporation shall by order set forth the reasons for any disapproval under this paragraph. Inaction on any notice or a Corporation order determining not to disapprove a proposal to engage in an activity that has previously been authorized by regulation under this paragraph shall be final and shall not be subject to judicial review under this Section or in any other manner, provided, however, that any savings and loan holding company may obtain judicial review pursuant to this Section of any Corporation order not to disapprove a notice under this paragraph if such order contains restrictions or conditions.

"(F) The Corporation may by regulation prescribe limitations on the conduct of any activity or activities authorized under subparagraph (2)(F) of this subsection other than limitations on activities conducted pursuant to clause (v) thereof, consistent with the criteria in subparagraph (D) hereof and with safe and sound financial practices.".

SEC. 20. Subsection (d) of the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. 1730a(d)) is hereby amended as follows:

(1) The introductory phrase is amended to read as follows: "(d)(1) Except as otherwise provided in this section, no subsidiary insured institution of a savings and loan holding company shall —";

(1) Numbers (1), (2), (3), (4), (5), and (6) shall be redesignated as (A), (B), (C), (D), (E), and (F), respectively, and letters (A), (B), and (C) shall be redesignated as (i), (ii), and (iii); and

(3) The following subsection (d)(2) shall be added at the end thereof: "The prohibitions of subsection (d)(1) shall not apply to the transactions of any subsidiary insured institution of a savings and loan holding company with an affiliate engaged in the business activities specified in subparagraphs (F) and (G) of subsection (c)(2) of this section except for clause (ii) of subparagraph (F); unless the context otherwise requires, such transactions by an insured institution shall be subject to the same limitations and prohibitions specified in sections 23A and 23B of the Federal Reserve Act (12 U.S.C. 371c and d) as if such insured institution were a member bank. The Corporation may prescribe rules or regulations for purposes of defining and clarifying the applicability of the limitations and prohibitions described in the preceding sentence.".

SEC. 21. Subsection (e) of the Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. 1730a(e)) is hereby amended by amending clause (ii) of subparagraph (1)(B) to read as follows:

"(ii) acquired in connection with a reorganization in which a person or group of persons exchange their shares of an insured institution for shares of a newly formed holding company and receive, after such reorganization, substantially the same proportional share interest in the holding company as they held in the insured institution, except for changes in shareholder interests resulting from the exercise of dissenting shareholder rights under state law.".

SEC. 22. The Savings and Loan Holding Company Amendments of 1967 (12 U.S.C. 1730a) are hereby amended by deleting subsection (n) thereof, and inserting in lieu therof the following new subsection (n):

"(n) No state shall prohibit the affiliation of an association, as that term is defined in subsection 1462(d) of this title, with a company engaged solely in one or more of the activities described in subparagraphs (F) and (G) of paragraph (c)(2) of this section.".

AMENDMENTS TO THE HOME OWNERS' LOAN ACT OF 1933

SEC. 23. Section 4(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(c)), is amended by amending subparagraph (B) of paragraph (4) to read as follows:

"(B) SERVICE CORPORATIONS.—Investments in any "depository institution service corporation," as that term is defined in the Depository Institution Service Corporation Act (12 U.S.C. 1861, et. seq.) and in accordance with the requirements, conditions and limitations specified in that Act.".

SEC. 24. Subsection 5(q) of the Home Owners' Loan Act of 1933 (12 U.S.C. 1464(q)) is amended by adding a new paragraph (6) to read as follows:

"(6) Any action for injunctive relief that may be commenced by any person pursuant to paragraph (2) of this provision, may be commenced on the behalf of such person by any trade association of which such person is a member, provided that any such action commenced by a trade association shall be subject to the same requirements, limitations and conditions as would be applicable had such action been commenced by any such person pursuant to paragraph (2) of this provision.".

SEC. 25. The Bank Service Corporation Act (12 U.S.C. 1861 et. seq.) is hereby amended to read as follows:

"SHORT TITLE AND DEFINITIONS

"SECTION 1. (a) This Act may be cited as the 'Depository Institution Service Corporation Act.'

"(b) For purposes of this Act—

"(1) The term 'appropriate Federal supervisory agency' shall include 'appropriate Federal banking agency' as defined in section 1813(q) of this title (12 U.S.C. 1813(q)) and the Federal Home Loan Bank Board with respect to any "insured institution" as defined in section 1730a(a)(1)(A) of this title (12 U.S.C. 1730a(a)(1)(A));

"(2) The term 'depository institution service corporation' means a corporation organized to perform services authorized by this Act, all of the capital stock of which is owned by one or more depository institutions;

"(3) The term 'depository institution' means any institution subject to examination and supervision by any 'appropriate Federal supervisory agency';

"(4) The term 'invest' includes any advance of funds to a depository institution service corporation, whether by the purchase of stock, the making of a loan, or otherwise, except a payment for rent earned, goods sold and delivered, or services rendered prior to the making of such payment; and

"(5) The term 'principal investor' means the depository institution that has the largest dollar amount invested in the capital stock of a depository institution service corporation. In any case where two or more depository institutions have equal dollar amounts invested in a depository institution service corporation, the corporation shall, prior to commencing operations, select one of the depository institutions as its principal investor and shall notify the depository institution's appropriate Federal supervisory agency of that choice within 5 business days of its selection.

"AMOUNT OF INVESTMENT IN DEPOSITORY INSTITUTION SERVICE CORPORATION

"SEC. 2. Notwithstanding any limitation or prohibition otherwise imposed by an provision of law exclusively relating to any depository institution, a depository institution may invest not more than 10 per centum of paid-in and unimpaired capital and unimpaired surplus in depository institution service corporations. No depository institution shall invest more than 5 per centum of its total assets in depository institution service corporations.

"PERMISSIBLE DEPOSITORY INSTITUTION SERVICE CORPORATION ACTIVITIES FOR DEPOSITORY INSTITUTIONS

"SEC. 3. A depository institution may invest in one or more depository institution service corporations that perform, and a depository institution service corporation may perform, the following services only for depository institutions and credit unions: Check and deposit sorting and posting; computation and posting of interest and other credits and charges; preparation and mailing of checks, statements, notices, and similar items; credit information, appraising, construction loan inspection, and abstracting; developing and administering personnel benefit programs; research, studies, and surveys; purchasing office supplies, furniture and equipment; developing and operating storage facilities for microfilm or other duplicate records; and clerical, bookkeeping, accounting, statistical, data processing, internal auditing, and similar functions performed for a depository institution.

"SERVICES TO NONSTOCKHOLDERS

"SEC. 4. No depository institution service corporation shall unreasonably discriminate in the provision of any services authorized under this Act to any depository institution that does not own stock in the service corporation on the basis of the fact that the nonstockholding institution is in competition with an institution that owns stock in the depository institution service corporation, except that—

"(1) it shall not be considered unreasonable discrimination for a depository institution service corporation to provide services to a nonstockholding institution only at a price that fully reflects all of the costs of offering those services, including the cost of capital and a reasonable return thereon; and

"(2) a depository institution service corporation may refuse to provide services to a nonstockholding institution if comparable services are available from another source at competitive overall costs, or if the providing of services would be beyond the practical capacity of the service corporation.

"REGULATION AND EXAMINATION OF DEPOSITORY INSTITUTION SERVICE CORPORATIONS

"SEC. 5. (a) A depository institution service corporation shall be subject to examination and regulation by the appropriate Federal supervisory agency of its principal investor to the same extent as its principal investor. The appropriate Federal supervisory agency of the principal shareholder of such a depository institution service corporation may authorize any other Federal supervisory agency that supervises any other shareholder of the depository institution service corporation to make such an examination.

"(b) A depository institution service corporation shall be subject to the provisions of the Financial Institutions Supervisory Act of 1966 as if such service corporation were the same type of depository institution as its principal investor, except that its appropriate Federal supervisory agency of the principal investor shall be authorized to apply such provisions to a depository institution service corporation.

"(c) Notwithstanding subsection (a) of this section, whenever a depository institution that is regularly examined by an appropriate Federal supervisory agency, or any subsidiary or affiliate of such a depository institution that is subject to examination by that agency, causes to be performed for itself, by contract or otherwise, any services authorized under this Act, whether on or off its premises—

"(1) such performance shall be subject to regulation and examination by such agency to the same extent as if such services were being performed by the depository institution itself on its own premises, and

"(2) the depository institution shall notify such agency of the existence of the service relationship within 30 days after the making of such service contract or the performance of the service, whichever occurs first.

"(d) The appropriate Federal supervisory agencies are authorized to issue such regulations and orders as may be necessary to enable them to administer and to carry out the purposes of this Act and to prevent evasions thereof.

"GRANDFATHER RIGHTS

"SEC. 6. (a) Notwithstanding any other provision of law—

"(1) any service corporation owned by one or more depository institutions and acquired or maintained and operated pursuant to the Bank Service Corporation Act of 1982 (12 U.S.C. 1861 et. seq. (1982, repealed 1983)) or pursuant to subparagraph (B)(4) of section 5(c) of the Home Owners' Loan Act of 1933 (12 U.S.C. 146(c)(B)(4)) and any regulations promulgated thereunder, may engage in those activities in which (i) it was lawfully engaged on July 1, 1983, and (ii) it has been engaged continuously since July 1, 1983; and

"(2) any depository institution that (i) lawfully invested in a service corporation within the meaning of paragraph (1) of this subsection as of July 1, 1983, and (ii) continuously maintained an investment in such a service corporation since July 1, 1983, may maintain and increase such investment, provided that any such investment is made and maintained in accordance with all conditions, requirements, and limitations applicable thereto under the laws described in paragraph (1) of this subsection.

"(b) the authority conferred by subsection (a) of this section shall terminate, with respect to any covered service corporation, at such time as such service corporation expands its activities to include any new activity, or, with respect to any covered depository institution with an investment in such a service corporation, at such time as such depository institution invests in excess of the limitations set forth in subsection (a)(2) of this section in any service corporation: *Provided,* That any appropriate Federal supervisory agency may, upon application by a service corporation or depository institution that would be required to terminate activities of or divest stock ownership in a service corporation, authorize such service corporation or depository institution to maintain its activities or stock interest for an appropriate period of time in the public interest, but in no event shall such time period exceed one year.

"MUTUAL THRIFT SERVICE CORPORATIONS

"SEC. 7. Notwithstanding any other provision of law, any association, which is organized and continues to operate in the mutual form, is authorized to invest in the capital stock, obligations, or other securities of any corporation organized under the laws of the State in which the home office of the mutual organization is located, if the entire capital stock of such corporation is available for purchase only by savings and loan associations of such State and by Federal associations having their home offices in such State, but no mutual organization may make any investment under this section if its aggregate outstanding investment under this section would exceed 3 per centum of the assets of the mutual organization, except that not less than one-half of the investment permitted under this section shall be used primarily for community, inner-city, and community development purposes. This section shall be interpreted under the Home Owners' Loan Act of 1933, and regulations lawfully promulgated thereunder as of July 1, 1983.".

FINANCIAL INSTITUTIONS DEREGULATION ACT—SECTION-BY-SECTION ANALYSIS

The purpose of this legislation is to provide a comprehensive Federal statutory framework for the regulation of bank and thrift holding companies. In order to promote increased competition, this bill provides a mechanism for expanding the permissible activities for depository institution holding companies to include those of a financial nature; insurance underwriting and brokerage; real estate investment, development and brokerage; and certain securities activities. The bill permits these new activities to be conducted only by the holding company itself or by a subsidiary of the holding company.

Section 1. Section 1 provides that this bill is entitled the Financial Institutions Deregulation Act.

Section 2. Section 2 amends Section 20 of the Banking Act of 1933 (12 U.S.C. 377) to allow a member bank to be affiliated with a depository institution securities affiliate (defined in Section 7 of the bill). Although this provision permits such affiliation, it does not permit the member bank to own shares of such an affiliate, or otherwise to engage in securities activities. Thus, the activities authorized for a depository institution securities affiliate must be conducted either by the bank's parent holding company or by a separate subsidiary of the holding company.

Under current law, a member bank is prohibited from affiliating in any manner with any organization engaged principally in the issuance, underwriting, public sale, or distribution (at wholesale or retail or through syndicate participation) of stocks, bonds, debentures, notes or other securities. As provided in Section 11 of this bill, a depository institution securities affiliate is authorized to engage in some, but not all, of these activities. Specifically, this legislation provides that a depository institution securities affiliate is empowered to: (1) deal in and underwrite U.S. government and municipal securities, but not, with two exceptions, industrial development bonds; (2) sponsor, manage, advise and control investment companies and to underwrite the securities thereof; (3) conduct a government and municipal securities business; (4) engage in securities brokerage transactions; and (5) conduct any other securities or securities-related activities that a national bank is not prohibited from conducting.

Although Section 20 of the Banking Act of 1933 does not apply to nonmember banks, Section 4 of the Bank Holding Company Act of 1956 ("Bank Holding Company Act") has been applied to prohibit a general securities firm from becoming a subsidiary of a bank holding company and, thereby, from affiliating with any subsidiary bank (including a member bank) of a bank holding company. Accordingly, as provided in Section 11, this bill amends the Bank Holding Company Act to allow a bank holding company to acquire shares of a depository institution securities affiliate.

Section 3. Section 3 amends Section 32 of the Banking Act of 1933 (12 U.S.C. 78) to allow an officer, director, or employee of a member bank to serve at the same time as an officer, director or employee of its depository institution securities affiliate or affiliates. Existing restrictions continue to apply to prevent such an interlocking relationship with a nonaffiliated depository institution securities affiliate or any other firm engaged in securities activities.

Section 4. Section 4 amends the Securities Act of 1933 to exempt from the registration requirements of that Act the issuance of a company's shares in connection with a simple reorganization in which a company becomes the parent of a bank or thrift institution. Therefore, the filing of a registration statement will not be required by the Act where a person or group of persons owning the shares of a bank or a thrift institution transfers those shares to a newly formed holding company and receives substantially the same proportional share interest in the holding company that the person or group held in the depository insti-

tution immediately prior to the reorganization. The amendment would require only "substantially" the same proportional interests after the reorganization, and further excepts changes in proportional shareholder interests arising out of the exercise of dissenting shareholder rights. The amendment is intended to reduce the time and expense involved in forming a holding company and to complement the simplification in the prior approval requirements for conversions to holding company form which this bill would make in the Bank Holding Company Act and in the Savings and Loan Holding Company Act.

Section 5. Section 5 amends the definition of "appropriate regulatory agency" in the Securities Exchange Act of 1934 ("Securities Exchange Act") so that the Securities and Exchange Commission ("SEC") is the appropriate regulatory agency for enforcing a depository institution securities affiliate's compliance with the statutory and regulatory requirements governing transactions in municipal securities.

Under current law, the relevant depository institution supervisory agencies enforce a Federally insured depository institution's compliance with the Municipal Securities Rulemaking Board's ("MSRB") rules, which must be approved by the SEC. Under this bill, the depository institution supervisory agencies retain enforcement authority over: (1) certain securities activities prior to the mandatory transfer of those activities to the depository institution securities affiliate; (2) those securities activities that are not required to be transferred to the securities affiliate within the one-year transition period; and (3) the securities activities of any depository institution that does not become affiliated with a depository institution securities affiliate.

Section 6. Section 6 amends Section 15B of the Securities Exchange Act, which establishes the composition of MSRB. The bill makes clear that representatives of depository institution securities affiliates may be included among those members of the MSRB that are selected from bank municipal securities dealers, but not among those members of the MSRB that are currently selected from brokers, dealers, or municipal security dealers. The bill thus provides depository institution securities affiliates with representation on the MSRB equivalent to that enjoyed by other municipal securities dealers and bankers engaged in the municipal securities business.

Section 7. Section 7 amends the definitions used in the Bank Holding Company Act by modifying the meaning of "bank" and by adding the terms "depository institution securities affiliate," "depository institution holding company," "depository institution," "savings and loan holding company," and "insured institution."

The term "bank" is modified to mean: (1) an insured bank as that term is defined in the Federal Deposit Insurance Act (12 U.S.C. 1813(h)); (2) any institution eligible to become such an insured bank; or (3) any institution, whether organized under the laws of the United States, any state or the District of Columbia or any United States Territory, that both accepts deposits that may be withdrawn on demand and makes commercial loans. The term bank does not include, however, a foreign bank having an insured branch or an insured institution (as defined in 12 U.S.C. 1730a(a)(1)). Furthermore, this bill continues to exempt Edge Act banks and organizations whose only United States business is an incident of their activities outside the United States. This expanded definition of bank brings Federally insured nonbank banks, as well as nonfederally insured state chartered banks and thrift institutions under the jurisdiction of the Bank Holding Company Act. Although a more expansive definition is proposed, it may well be that all legitimate policy objectives for the Federal Goverment can be met by covering only Federally insured banks.

The term "depository institution securities affiliate" means any corporation that (1) engages in the United States in one or more of the activities authorized under Section 11 of the bill, and (2) is either a broker or dealer within the meaning of the Securities Exchange Act or an investment adviser within the meaning of the Investment Advisers Act of 1940. A depository institution securities affiliate would thus function as a member of the securities industry to the extent permitted by its authorized activities, and would be eligible for membership in the National Association of Securities Dealers and the Securities Investor Protection Corporation.

For purposes of the Bank Holding Company Act, Section 7 of the bill defines the term "depository institution holding company" to mean bank holding company and the term "depository institution" to mean bank. Similarly, for the purposes of the Savings and Loan Holding Company Act, Section 18 of this bill defines the term "depository institution holding company" to mean savings and loan holding company and the term "depository institution" to mean insured institution. As a result, a depository institution securities affiliate could be affiliated with either a bank or an insured thrift institution; a depository institution holding company could be either a bank or a savings and loan holding company.

Finally, Section 7 defines "savings and loan holding company" and "insured institution" for purposes of the Bank Holding Company Act as they are defined in the Savings and Loan Holding Company Amendments of 1967.

Section 8. Section 8 amends subsection 3(a) of the Bank Holding Company Act to provide a simplified process for the formation of a bank holding company. This simplified process is available for a reorganization in which a person or group of persons owning bank shares transfers such shares to a newly formed holding company and receives substantially the same proportional share interests in the holding company that were held in the bank prior to the holding company's formation, provided that no other organizational change is implemented as part of such holding company formation. The shareholders' respective proportional interests need be only "substantially" the same after the reorganization, and there is a further exception for changes in shareholder interests arising out of the exercise of dissenting shareholders' appraisal rights.

Under this approach, the formation of a holding company would automatically be approved if: (1) thirty days prior notice is given to the Federal Reserve Board; (2) the proposed bank holding company meets the capital and other financial standards established by regulation by the Federal Reserve Board; and (3) the proposed bank holding company does not engage, at the time of the reorganization, in any activities other than banking or managing or controlling banks. The Federal Reserve Board, in promulgating regulations pursuant to this section, may not require the subsidiary bank to have more capital immediately after the reorganization than is required for a similarly sized bank that is not a subsidiary of a bank holding company.

Section 9. Section 9 amends paragraph 4(a)(2) of the Bank Holding Company Act to expand the types of activities in which a bank holding company may engage directly and to provide certain grandfather privileges for bank holding companies.

Although the Bank Holding Company Act generally prohibits a bank holding company from engaging in nonbanking activities directly, paragraph 4(a)(2) of that Act authorizes a holding company to engage directly in those activities permitted under paragraph 4(c)(8) of the Act. Paragraph 4(c)(8) currently permits activities determined by the Federal Reserve Board to be closely related to banking. Since Section 10 of the bill amends paragraph 4(c)(8) to include certain additional activities, all of these newly permitted activities may be conducted in the holding company directly. These new activities include the following: (1) activities determined by the Federal Reserve Board to be of a financial nature, (2) insurance underwriting and brokerage activities, and (3) real estate investment, development and brokerage activities. Section 9 of this bill specifically amends paragraph 4(a)(2) to add the activities of a depository institution securities affiliate to those activities that a holding company may engage in directly.

Section 9 also sets forth certain grandfather rights for companies that acquired so-called "nonbank banks" prior to July 1, 1983. A company that owned a nonbank bank on July 1, 1983, may continue to operate its nonbank bank, provided that the nonbank bank does not both accept demand deposits and make commercial loans. In addition, such a company may continue to conduct and expand any activity, but only if it was legally engaged in that activity on July 1, 1983, and continuously thereafter. Any expansion of an activity permissible for bank holding companies is, however, subject to any conditions, limitations, or requirements of the Bank Holding Company Act. A grandfathered company automatically loses its grandfather privileges if: (1) it acquires control of an additional bank or insured institution, or if its existing nonbank bank both accepts demand deposit and makes commercial loans; or (2) it begins, after July 1, 1983, to engage in any activities, other than those permissible for a bank holding company, that were not grandfathered pursuant to this Section. Thus, for example, the automatic termination of grandfather rights would be triggered in the event that a bank holding company acquired an FSLIC-insured thrift. In addition, the authority to continue grandfathered activities may be terminated if the Federal Reserve Board determines that such action is necessary to prevent conflicts of interest, to prevent unsound banking practices or is in the public interest.

No grandfather rights are provided for any company that acquires a nonbank bank after July 1, 1983. Therefore, such a company must immediately divest its nonbank bank(s) or conform all of its activities to those permissible for holding companies under the Bank Holding Company Act by the effective date of this legislation.

Section 10. Section 10 amends subsection 4(c) of the Bank Holding Company Act by deleting the current paragraph (8), which permits bank holding companies, after notice and opportunity for hearing and subject to prior approval by the Federal Re-

serve Board, to engage in activities closely related to banking. Section 10 replaces that paragraph (8) with a new paragraph (8), which permits bank holding companies after notice and subject to disapproval (as explained below) by the Federal Reserve Board, to engage in the following: (1) ownership of one or more insured institutions; (2) activities determined by the Federal Reserve Board to be of a financial nature; (3) activities determined by the Board to be closely related to banking or managing or controlling banks; (4) insurance underwriting or brokerage; and (5) real estate investment, development or brokerage (subject to the limitation that no more than 5 percent of the bank holding company's primary capital be devoted to real estate investment and development).

Generally, the bank holding company must submit a notice to the Board 60 days in advance of engaging in any of these activities. However, no notice is required where a bank holding company opens offices de novo or changes the location of existing offices with to change of activities. The Board will, by regulation, prescribe the information that must be submitted, but may not require more information than that relevant to the nature and scope of the proposed activity and to the Board's consideration of the following criteria: (1) the managerial resources of the bank holding company and, if conducted through a subsidiary, the company that will engage in the activity; (2) the adequacy of such companies' financial resources; (3) any practice or arrangement that may affect adversely the independence or impartiality of an affiliated bank in the provision of credit or other services, or may affect adversely the terms or the availability of credit; and (4) any material adverse affect on the safety and soundness or financial condition of an affliated bank or banks. If additional information, not described by regulation, is required for any particular notice, the Board may suspend the notice process, but then must act to disapprove the proposal within 30 days after the additional information is submitted.

The Board has the authority, upon consideration of the four criteria listed above to disapprove the proposal, but must do so within the statutory time period of 60 days (or the 30 day period after submission of additional information). Any such disapproval must be by written order issued by the Board, setting forth the reasons for disapproval.

Section 10 requires the Board, within 180 days after the effective date of this Act, to promulgate regulations listing and describing specific activities that are of a financial nature and specific activities that are closely related to banking, and permitting bank holding companies, after notice and subject to the conditions of this section, to engage in those activities.

In defining activities of a financial nature, the Federal Reserve Board is directed to give primary consideration to the public benefits that result from increased competition among all companies, whether or not depository institution holding companies, engaged in activities of a financial nature. Dramatic changes are taking place in the financial services industry. Distinctions that have previously existed between banking and nonbanking services are becoming increasingly outmoded. Nondepository institutions now offer services that compete with traditional banking services. Nonbanking diversified firms such as Sears-Roebuck and Co., Merrill Lynch & Co., and American Express are rapidly approaching the point where they can offer one-stop financial shopping. It is intended that the Federal Reserve Board, in recognition of these changes, define "activities of a financial nature" in such a manner as to enable bank and savings and loan holding companies to offer a broader range of services that will compete with those offered by other companies not regulated to the same extent as depository institutions and their holding companies. The Board has the right to prescribe limitations on any such activity consistent with the four criteria described above and with safe and sound financial practices.

The Board is further directed, pursuant to Section 10, to revise periodically its regulations to continue to promote expanded competition among all companies engaged in activities of a financial nature and to permit holding companies to engage in additional activities that are closely related to banking. Companies may also petition the Board to add new activities or to expand those already permissible, and it is intended that the Board will act expeditiously on such petitions.

The Board, however, is prohibited from authorizing activities pursuant to this Section that are of the kind described in paragraph 15 of subsection 4(c) of the Bank Holding Company Act, or that are prohibited under Sections 16 and 20 of the Banking Act of 1933 (12 U.S.C. 24 (Seventh) and 377) as amended by this bill. The prohibition against authorizing the activities specified in paragraph 15 is to ensure that any securities activities conducted by a bank holding company are conducted only subject to the conditions and requirements of paragraph 15 of subsection 4(c) of the Bank Holding Company Act.

In repealing the current paragraph (8) of subsection 4(c) of the Bank Holding Company Act, Section 10 of this bill eliminates the limitations on insurance activities added to that paragraph by the Garn-St Germain Depository Institutions Act of 1982. This bill contains no specific limitation on the extent to which a bank holding company may engage, either directly or through a subsidiary, in insurance underwriting and brokerage activities. However, the Federal Reserve Board is authorized to prescribe limitations for the conduct of such activities consistent with the statutory criteria specified in paragraph 8 of subsection 4(c) of the Bank Holding Company Act and consistent with safe and sound financial practices.

In authorizing bank holding companies, either directly or through a subsidiary, to engage in real estate investment, development or brokerage, Section 10 of the bill limits the bank holding company's capital investment in its real estate development and investment activities to no more than 5 percent of its primary capital. Real estate brokerage activities are not so limited. It is the intent of this bill that property management be considered a permissible real estate brokerage activity for a bank holding company.

Section 10 of this bill authorizes bank holding companies to acquire one or more FSLIC-insured institutions. (The bill does not authorize a bank holding company to engage directly in the activities of an FSLIC-insured institution.) Any acquisition under this new authority is also subject to all the limitations, conditions and requirements of the Savings and Loan Holding Company Act. Thus, for example, both the FSLIC and the Board have authority to disapprove any such acquisition. Furthermore, while both the Board (through its cease and desist authority over bank holding company subsidiaries) and the FSLIC may supervise the operations of the FSLIC-insured institution that becomes a subsidiary of a bank holding company, it is expected that the Board will defer to the FSLIC as the primary regulator of the insured thrift in the area of the financial safety and soundness of such subsidiary.

Section 11. Section 11 adds a new exemption to subsection 4(c) of the Bank Holding Company Act to permit bank holding companies, subject to the prior notice and the other requirements and conditions contained in Section 10 of the bill, to acquire shares in any company that engages only in the activities authorized for a depository institution securities affiliate pursuant to that Section. As explained in Section 9 herein, such depository institution securities affiliate activities may be conducted by the bank holding company directly as well as through its nonbank subsidiary.

Subparagraph (i) of Section 11 prohibits any bank holding company that establishes or acquires a securities affiliate pursuant to this Section, or that engages in securities affiliate activities pursuant to Section 9 and this Section, from permitting any of its subsidiary banks to engage, directly or through a subsidiary, in any securities activity one year after the date the securities affiliate first engages in any of the specified securities activities described in subparagraph (iii). The activities that are not permissible for a bank subsidiary, and which therefore may be conducted only by the securities affiliate, include the activities specified in subparagraph (iii) described below and the following activities which are authorized under 12 U.S.C. 24 (Seventh) for banks: securities brokerage activities and dealing in and underwriting (1) obligations of the United States, (2) general obligations of any state or local government, and (3) other obligations listed in paragraph Seventh of 12 U.S.C. 24.

The Federal Reserve Board is authorized by subparagraph (i) of Section 11 to prescribe rules and regulations identifying any securities and securities-related activities in which a subsidiary bank of a holding company may not engage one year after the date its securities affiliate first begins engaging in any activities described in subparagraph (iii). However, this authority does not extend to, and the bill is not intended to affect, the normal funding and investment practices of depository institutions. Accordingly, for example, a depository institution may continue to purchase and sell investment securities for its own account. It is intended that, in the case of brokerage transactions, only the securities affiliate would be permitted to offer securities brokerage services to customers. Bank services such as custodian activities, however, do not constitute securities brokerage services, and it is intended that such services may continue to be conducted in the bank to the extent permitted by law. It is also intended that banks may continue to engage in advisory activities in connection with the private placement of securities and that such activities need not be transferred to the securities affiliate.

Subparagraph (i) further states that in the event a bank holding company terminates the subparagraph (iii) activities of its depository institution securities affiliate, its bank subsidiary or subsidiaries may conduct (through the bank itself or through a sub-

sidiary) any activities that a bank is authorized by law to conduct.

Under subparagraph (ii) of Section 11, a depository institution securities affiliate is authorized to conduct all of the securities and securities-related activities that a national bank is not prohibited from conducting under Federal law.

Subparagraph (iii) of Section 11 specifies activities that may be conducted by a securities affiliate, but that may not be conducted by a bank one year after the date its securities affiliate first begins engaging in any activities described in such subparagraph (iii). The activities specified in subparagraph (iii) include: dealing in and underwriting obligations issued or guaranteed by state or local governments, except most industrial development bonds; [1] organizing, sponsoring, operating, and controlling an investment company and advising such a company; [2] and underwriting and selling securities of any investment company.

All transactions between a bank and its depository institution securities affiliate are subject to the restrictions on interaffiliate transactions contained in Sections 23A and 23B of the Federal Reserve Act. This is discussed further under Section 15 herein.

Section 19 of this bill provides that savings and loan holding companies also may acquire depository institution securities affiliates and may, either at the holding company level or through such affiliate, conduct all of the activities of a depository institution securities affiliate. In interpreting Section 19 of the bill, the discussion of Section 11 above is applicable in relevant part to a savings and loan holding company and to an insured thrift institution as if they were, respectively, a bank holding company and a bank.

Section 12. Section 12 adds a new exemption from the general prohibitions of Section 4 of the Bank Holding Company Act to permit a bank holding company, subject to the prior notice and the other requirements and conditions contained in Section 10 of the bill, to acquire shares of a company engaged in any activities in which a multiple savings and loan holding company was authorized by law or regulation to engage on July 1, 1983. With respect to engaging in real estate investment and development, however, a bank holding company is subject to the limitation that no more than 5 percent of its primary capital be devoted to such activities. As explained in Section 9 of this bill, such activities may be conducted by the bank holding company directly or through a subsidiary. A bank holding company engaged in any such activities is subject to all the requirements, conditions, and limitations that are applicable to a savings and loan holding company engaged in such activities. Furthermore, the Board has the authority either to prohibit any bank holding company from engaging in any activities authorized by the Section or to limit the extent to which a bank holding company may conduct such activities.

Section 13. Section 13 amends the Bank Holding Company Act to provide that, under most circumstances, companies engaged in the securities business may satisfy the Federal Reserve Board's reporting requirements with respect to nonbank subsidiaries by submitting to the Board the same information submitted to the Securities and Exchange Commission under Section 17 of the Securities and Exchange Act. Similarly, all other companies may generally satisfy those requirements by submitting to the Board the same information that would be submitted by reporting companies engaged in similar businesses under Section 13 of the Securities and Exchange Act. The Board may, however, establish lesser reporting requirements by regulation and may require greater reporting in particular cases where circumstances warrant. The bill also directs the Board to limit, where feasible, the examinations of nonbank subsidiaries of a bank holding company by using the reports of other entities and by directing, to the extent feasible, the focus of examinations of nonbank subsidiaries to their financial condition or to those activities that may have a materially adverse effect on either the safety and soundness or the financial condition of a subsidiary bank.

Section 14. Section 14 amends Section 7 of the Bank Holding Company Act to provide that no state may prohibit an affiliation between a national banking association and a company engaged in any of the activities authorized by Section 10, 11 and 12 of this bill.

Section 15. Section 15 amends the Federal Reserve Act (12 U.S.C. 371c) by adding new Section 23B, restricting transactions between a member bank and its affiliates. Although Section 23B applies to transactions between a member bank and all of its affiliates, the Federal Reserve Board is authorized to exempt affiliates from the provisions of section 23B. It is expected that the Board will liberally utilize its authority to exclude subsidiaries engaged in existing nonbank activities. As with Section 23A, new Section 23B is applicable to Federally insured nonmember banks through Section 18(j) of the Federal Deposit Insurance Act. Furthermore, as provided in Section 20 of this bill, the provisions of Sections 23A and 23B are applicable to transactions between a Federally-insured thrift and its affiliates engaged in newly authorized activities.

New Section 23B provides that a member bank and its subsidiaries may engage in certain transactions with any affiliate only if the terms and conditions of the transaction, including credit standards, are substantially the same as, or at least as favorable to the bank as, those prevailing at the time for comparable transactions with nonaffiliated companies. If there are no comparable transactions, the terms and conditions of the transaction must be the same as those that, in good faith, would be offered to or would apply to nonaffiliated companies. Transactions subject to this limitation are:

(1) any covered transaction, as defined in Section 23A, with an affiliate;

(2) a sale of securities or other assets, including assets subject to an agreement to repurchase, to an affiliate;

(3) the payment of money or the furnishing of services to an affiliate under contract, lease, or otherwise;

(4) any transaction in which an affiliate acts as an agent or broker or receives a fee for its services to the bank or to any other person; or

(5) any transaction or series of transactions with a third party if (A) an affiliate has a financial interest in the third party, or (B) an affiliate is a participant in such transaction or series of transactions.

New Section 23B prohibits a bank and its affiliates from advertising, or entering into an agreement suggesting, that the bank is in any way responsible for its affiliates' obligations. It makes clear, however, that a bank and its affiliates may use similar names. Thus, a bank holding company may use a common corporate name or symbol for all of its subsidiaries.

Section 23B prohibits a bank and its subsidiaries from purchasing as fiduciary any securities or other assets from an affiliate, unless such purchases are authorized by the instrument creating the relationship, by court order, or by the law of the jurisdiction under which the trust is administered. The Section also prohibits a bank and its subsidiaries, whether acting as principal or fiduciary, from knowingly either purchasing or acquiring, during the existence of any underwriting or selling syndicate, any obligations for which an affiliate or subsidiary of the member bank is a principal underwriter. As used in this section, a principal underwriter means: any underwriter who, in connection with a primary distribution of securities, (A) is in privity of contract with the issuer or an affiliated person of the issuer; (B) acting alone or in concert with one or more other persons, initiates or directs the formation of an underwriting syndicate; or (C) is allowed a rate of gross commission, spread, or other profit greater than the rate allowed another underwriter participating in the distribution. There is an exception to this prohibition where the purchase is approved by a majority of the bank's outside directors, i.e., directors that are not officers or employees of the bank or any affiliate of the bank. Nothing in this Section, however, is intended to affect the operation of any provisions of the Investment Company Act of 1940.

The final provision of this Section authorizes the Federal Reserve Board to prescribe rules and regulations to administer and carry out the purposes of Section 23B and prevent evasions thereof. Pursuant to these rules and regulations, the Federal Reserve Board may, among other things, further define terms used in this Section and exempt transactions or relationships from the requirements of Section 23B if the exemption is in the public interest.

Section 16. Section 16 amends the Investment Company Act of 1940 to permit an investment company affiliated with a depository institution securities affiliate, but only with the prior approval of the Securities and Exchange Commission, to (1) place or maintain its securities or similar investments in the custody of a bank affiliated with such depository institution securities affiliate; (2) designate any such bank as trustee or custodian; or (3) deposit designated proceeds with any such bank under this Section. The Securities and Exchange Com-

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[1] While there is a general prohibition against dealing in and underwriting industrial development bonds, there are two situations in which depository institution securities affiliates may deal in and underwrite tax-exempt industrial development bonds: (1) if either a state of local government pledges its full faith and credit to guarantee payment of all principal and interest on such bonds; or (2) if the issuer (or the governmental unit on whose behalf the bonds are issued), and only the issuer, is considered to be the sole owner of the financed facility for Federal income tax purposes.

[2] Pursuant to subparagraph (iii), a securities affiliate is authorized to engage in, and a bank under the circumstances described in subparagraph (i) is prohibited from engaging in, offering investment advisory services to any investment company sponsored or managed by a bank's securities affiliate and to any investment company other than a closed-end investment company. Offering investment advisory services to a closed-end investment company not so sponsored or managed, which is not covered by subparagraph (iii), would be authorized to be offered both by such bank (under current Federal law) and by its securities affiliate (under subparagraph (ii) herein, which permits a securities affiliate to conduct any securities-related activity that a national bank is not prohibited from conducting).

mission has discretion to determine whether and, if so, under what circumstances and conditions, a bank and its affiliated investment company may enter into these three kinds of arrangements.

Section 17. Section 17 amends Section 106 of the Bank Holding Company Act Amendments of 1970 (12 U.S.C. 1972 et seq.) by adding a provision to permit a trade association to commence, on behalf of a person who is a member of such trade association, any private right of action for injunctive relief against threatened loss or damage as a result of a violation of the prohibitions against tying arrangements contained in the 1970 Amendments. Any action commenced by a trade association under Section 23 would be subject to all the same requirements, conditions, and limitations, including jurisdictional and procedural requirements, as would be applicable thereto if the action had been commenced by the person threatened by the violation. This provision is intended to permit trade associations to bring actions under this Section on behalf of their members, and thus to encourage maximum enforcement of these provisions through private actions rather than relying solely upon the action of supervisory agencies.

Section 18. Section 18 adds new terms and definitions to the Savings and Loan Holding Company Act. As discussed under Section 7 of the bill, the term "depository institution securities affiliate" has the same meaning as it has in the Bank Holding Company Act, except that under this provision it may be owned by a savings and loan holding company. The term "depository institution holding company" means savings and loan holding company; the term "depository institution" means an FSLIC-insured thrift; and the terms "bank holding company" and "bank" each have the meaning given to them in the Bank Holding Company Act.

Section 19. Section 19 amends the Savings and Loan Holding Company Amendments to: (1) subject all unitary savings and loan holding companies to the same restrictions on their activities as multiple savings and loan holding companies; (2) grandfather, under specified circumstances, certain activities of unitary savings and loan holding companies that were in existence on July 1, 1983; and (3) expand the activities authorized for all savings and loan holding companies to parallel those activities authorized under current law and under this bill for bank holding companies. A company that acquires an FSLIC-insured institution pursuant to the emergency thrift acquisition provisions of the Garn-St Germain Act is, however, excepted from the restrictions on business activities generally applicable to savings and loan holding companies under Section 19.

The grandfathering provisions of Section 19 authorize a holding company that was a unitary savings and loan holding company on July 1, 1983, to continue to engage in any activity in which it was lawfully engaged on that date and in which it has been engaged continuously thereafter, regardless of whether or not savings and loan companies may engage in such activities under Federal law.[3] Activities that are permissible for savings and loan holding companies, however, may be engaged in or expanded only subject to all the requirements, limitations, and conditions of the Savings and Loan Holding Company Amendments of 1967. Such a holding company could also continue to expand its existing FSLIC-insured subsidiary through branching or new permissible activities or acquire additional insured institutions provided that each such subsidiary continues to qualify as a domestic building and loan association under section 7701(a)(19) of the Internal Revenue Code. A grandfathered savings and loan holding company will immediately lose its grandfather privileges when (1) the FSLIC-insured subsidiary loses such qualification under the Internal Revenue Code; (2) the grandfathered holding company acquires an FDIC-insured bank; or (3) the grandfathered holding company commences any new activities, other than those permissible for savings and loan holding companies under this bill. No grandfather privileges are provided for any company that acquires an insured institution between July 1, 1983 and the date this legislation becomes effective. Furthermore, the Corporation may terminate these grandfather privileges if, after a hearing, it determines that a termination is necessary to prevent conflicts of interests or unsound practices or is in the public interest.

The second paragraph of Section 19 of this bill lists the activities that are considered permissible for savings and loan holding companies, whether unitary or multiple holding companies. Although a savings and loan holding company is expected to conform its activities to the list of permissible activities, this paragraph does provide a two-year grace period after the formation of a holding company for such holding company to so conform its activities. This grace period is not available, however, to any company that acquires an insured thrift between July 1, 1983 and the date this bill becomes law. This parallels the two-year grace period provided by law to bank holding companies and is intended to be applied in a parallel manner. The activities listed in Section 19 as permissible for savings and loan holding companies include the following activities that were permissible under prior law: performing management services for a subsidiary FSLIC-insured thrift; conducting an insurance agency or escrow business; holding, managing, or liquidating a subsidiary FSLIC-insured thrift's assets; holding or managing properties of an FSLIC-insured thrift subsidiary; and acting as trustee under a deed of trust. In addition, Section 19 adds the following as new permissible activities: insurance underwriting and brokerage; real estate investment, development, or brokerage (provided that no more than 5 percent of a savings and loan holding company's primary capital may be devoted to real estate investment and development); the activities of a depository institution securities affiliate in accordance with the limitations contained in the Bank Holding Company Act as provided in Section 11 of this bill;[4] activities determined by the Federal Reserve Board to be of a financial nature or closely related to banking; the acquisition of shares of an export trading company in accordance with the relevant provision of the Bank Holding Company Act (except with FSLIC rather than Federal Reserve Board approval) and subject to any rules or conditions for the conduct of this activity established by the Federal Reserve Board; the acquisition of shares of any FDIC-insured bank in accordance with applicable laws; and the activities in which multiple savings and loan holding companies may engage directly on July 1, 1983, provided that in the case of real estate investment and development, a savings and loan holding company may only maintain its investments lawfully held on July 1, 1983, and make additional investments that do not increase the total amounts of the holding company's investments in those activities above 5 percent of its primary capital.[5] The FSLIC may prohibit or limit, however, a savings and loan holding company from engaging in activities determined by the Federal Reserve Board to be of a financial nature or closely related to banking. It is intended, through this list of expanded permissible activities, that savings and loan holding companies be allowed to engage in the same activities authorized for bank holding companies, except that the FSLIC may either prohibit any activity for savings and loan holding companies or place limitations on their conduct.

The savings and loan holding company must submit a notice to the FSLIC 60 days in advance of engaging in any of these activities. No notice is required where a savings and loan holding company opens offices de novo or changes the location of offices with the change of activities.

The FSLIC will, by regulation, prescribe the information that must be submitted and any such required information must be relevant to the nature and scope of the proposed activity and to the FSLIC's consideraion of the notice. The FSLIC, in connection with any notice, may consider the same four criteria, discussed under Section 10 of this bill, that the Federal Reserve Board may consider in evaluating similar activities for bank holding companies.

The FSLIC has the authority, upon consideration of the four criteria noted above, to disapprove the proposal within the statutory time period of 60 days (which period may be extended by the FSLIC for an additional 30 days). The reasons for any disapproval issued by the FSLIC must set forth by written order.

Section 19 of this bill authorizes savings and loan holding companies to acquire one of more FDIC-insured banks. (The bill does not authorize a savings and loan holding company to engage directly in the activities of an FDIC-insured bank.) Any acquisition under this new authority is also subject to all of the limitations, conditions and requirements of the Bank Holding Company Act. Thus, for example, both the FSLIC and

[3] Since the Garn-St Germain Act of 1982 already subjected those unitary savings and loan holding company, whose subsidiary FSLIC-insured institution did not qualify as a domestic building and loan association under Section 7701(a)(19) of the Internal Revenue Code, to the prohibitions applicable to multiple savings and loanholding companies, such unitary savings and loan holding companies are not considered to have become subject to those prohibitions by virtue of the enactment of this bill and are therefore not grandfathered.

[4] For purposes of this section, the restrictions set forth in Section 11 that apply to banks and bank holding companies apply to the same extent to thrifts and savings and loan holding companies, respectively. Accordingly, if a savings and loan holding company forms a depository institution securities affiliate, the holding company must transfer all covered securities activities from its subsidiary insured institution(s) to the securities affiliate even where, for example, the subsidiary may have certain grandfather rights with respect to the securities activities conducted by the insured institution through a service corporation.

[5] The proviso concerning real estate investment and development is intended to grandfather a savings and loan holding company's lawful investments in these real estate activities as of July 1, 1983, but to permit additional investments in real estate investment and development only if, after such investment, no more than 5 percent of the holding company's primary capital is devoted to those activities.

the Federal Reserve Board have authority to disapprove any such acquisition. Furthermore, it is expected that the FSLIC will defer to the primary Federal Regulator of the bank *i.e.*, the Federal Reserve Board, FDIC or Comptroller of the Currency, in the area of the financial safety and soundness of a subsidiary bank of the holding company.

Section 20. Section 20 exempts, from the prohibitions against interaffiliate transactions set forth in the Savings and Loan Holding Company Amendments, transactions between FSLIC-insured thrifts and their affiliates engaged in any of the activities added to the list of permissible savings and loan holding company activities under this bill. It also subjects such transactions to the limitations of Sections 23A and 23B of the Federal Reserve Act as if the FSLIC-insured thrift were a member bank. The FSLIC is authorized to promulgate rules and regulations with respect to Sections 23A and 23B in order to define and clarify the applicability of those Sections to FSLIC-insured institutions.

Section 21. Section 21 amends the Savings and Loan Holding Company Amendments to exempt from the prior approval requirements set forth therein the formation of a savings and loan holding company involving a simple reorganization of interests from individual ownership to holding company form. Thus, prior approval by the FSLIC is not required in connection with a reorganization in which a person or group of persons owning an FSLIC-insured thrift transfers shares to a newly formed holding company and receives substantially the same proportional share interest in the holding company that they had in the thrift prior to the holding company formation (except for changes due to the exercise of dissenting shareholder appraisal rights). This is similar, although not indentical, to the exemption from the prior approval requirement for a reorganization to form a bank holding company as discussed under Section 8 of the bill. This section is intended to reduce the time and expense involved in forming a holding company and complements the changes made in the Securities Act of 1933 by Section 4 of this bill.

Under current law, the acquisition of an FSLIC-insured thrift institution is exempt from the FSLIC prior approval requirement if the institution is "acquired in connection with a reorganization in which a person or group of persons, having had control of an insured institution for more than three years, vests control of that institution in a newly formed holding company subject to the control of the same person or groups of persons." This language is subject to several interpretations and is complicated because of the ambiguity surrounding the issue of when "control" is present. Therefore, the bill clarifies the meaning of a "reorganization" that is not subject to the prior approval requirement and provides a more objective criterion for determining whether a reorganization qualifies for the exemption. The requirement that the control group have had such control for three years prior to the holding company formation is deleted, since any change in control involving individuals owning an FSLIC-insured thrift is subject to the Change in Savings and Loan Control Act of 1978 (12 U.S.C. 1703(1)(6)).

Section 22. Section 22 amends the Savings and Loan Holding Company Amendments to prevent states from prohibiting the affiliation of any Federally chartered thrift institution with a company engaged in only the activities newly authorized for savings and loan holding companies under this bill. These activities include: insurance underwriting and brokerage; real estate investment, development and brokerage; depository institution securities affiliate activities; activities of a financial nature and those closely related to banking; owning shares in an export trading company or in an FDIC-insured bank; and any bank holding company activities not otherwise authorized for savings and loan holding companies.

Section 23. Section 23 amends the Home Owners' Loan Act of 1933 to authorize Federally chartered thrift institutions to invest in "depository institution service corporations" but only in accordance with the requirements, conditions, and limitations in the Depository Institution Service Corporation Act set forth in Section 25 of this bill.

Under current law, which is repealed by this Section, Federally chartered thrifts are permitted to invest in service corporations in an amount up to 3 per cent of the thrift's assets (provided that not less than one-half of that investment over one per cent of assets is used primarily for community development purposes). The service corporation must be located in the same state as its parent thrift and its stock must be available for purchase only by thrifts. The law does not, however, provide any definition of a service corporation nor does it provide any description of such a corporation's permissible activities.

The Federal Home Loan Bank Board ("FHLBB") consequently promulgated regulations authorizing thrift-owned service corporations to engage in a wide range of activities far beyond those permitted for Federal thrift institutions. In view of these regulations, the managers of the House and Senate issued a "Joint Explanatory Statement of the Committee of Conference" in connection with the Garn-St Germain Act of 1982 regarding the scope of service corporation activities. In that statement, the managers stressed that Congress, by expanding the general powers of thrifts and not authorizing the FHLBB to permit service corporations to engage in new activities, intended that the FHLBB not approve, in the absence of clear Congressional authorization, any new expansion of service corporation activities (except for activities permitted for Federal thrifts themselves). The managers also stated that the House and Senate conferees reserved the right of their respective banking committees to review activities previously authorized by the FHLBB.

In light of the above, Section 23 of the bill, in conjunction with Section 25 of the bill, specifically describes and limits the types of activities in which a Federally chartered thrift may engage through its service corporation.

Section 24. Section 24 amends the provisions of the Home Owners' Loan Act to permit a trade association to commence, on behalf of one of its members, a private right of action for injunctive relief against threatened loss or damage resulting from a violation of that Act's prohibitions against tying arrangments. This parallels a similar provision with respect to banks, which is discussed under Section 17.

Section 25. Section 25, in effect, repeals the current Bank Service Corporation Act and replaces it with a new act entitled the "Depository Institution Service Corporation Act." This act governs investments in service corporations and operations of such corporations, with respect to both FDIC-insured banks and FSLIC-insured thrifts. Because all depository institution service corporations operate under this provision of law, different types of depository institutions in any combination may invest in such corporations.

In general, the new Depository Institution Service Corporation Act combines certain provisions of the Bank Service Corporation Act of 1982, and the as amended by the Garn-St Germain Act of 1982, and the regulations of the FHLBB regarding service corporation activities, to achieve a comprehensive law for depository institution service corporations.

The definitions in Section 1 of the new Act are taken in large part from the Garn-St Germain Act; however, the definitions of "appropriate Federal supervisory agency" and "depository institution" are expanded in the bill to permit investments by FSLIC-insured thrifts in addition to banks.

Section 2 of the new Act provides limitations on the amount of investment, i.e., 10 per cent of paid-in and unimpaired capital and unimpaired surplus and no more than 5 per cent of total assets. These limitations are taken from the Bank Service Corporation Act of 1962, as amended by the 1982 Act.

Section 3 of the new Act limits the scope of permissible service corporation activities to those contained in the 1962 Act and to certain activities contained in the relevant FHLBB regulations. This Section is intended to limit the activity of service corporations to those primarily of a clerical nature or related to internal operations, in order to assist depository institutions in minimizing the expenses of carrying out their traditional activities. It is not intended to permit service corporations to engage in activities of a retail nature. Thus, the activities that will no longer be permissible include those activities (such as activities closely related to banking) that were added by the 1982 Act, and a variety of business activities permitted for thrift service corporations pursuant to FHLBB regulations. Such prohibited business activities include: making consumer loans; providing tax return preparation services; acquiring, maintaining, managing and developing real estate; and insurance agent or broker services. This Section also deletes the provisions of the 1982 Act authorizing service corporations to provide nondepository institutions with any services that could be provided to depository institutions.

The fourth Section of Section 25 of this bill prohibits depository institution service corporations from unreasonably discriminating in the provisions of services to any nonstockholder depository institution in competition with a stockholder of such depository institution. This provision, derived from the 1962 Act, reflects certain changes made by the 1982 Act.

The fifth Section of Section 25 of the bill is essentially the same as that of the 1982 Act except for certain technical changes made in light of the expansion of investor authority to include thrifts.

The sixth Section of Section 25 of the bill provides grandfather rights to service corporation investors and for service corporation activities where an investment was made and the activities were commenced prior to July 1, 1983, in accordance with then existing laws. As stated in this Section of the bill, any activities engaged in or investment retained or increased pursuant to the grandfather privileges contained in this Section must conform to all conditions, requirements, and limitations applicable to such in-

vestment on July 1, 1983. Thus, all the provisions of law, rule or regulation effective on July 1, 1983, and applicable to any bank or thrift service corporation activity or investment (including limitations on types of activities and investors, investment limitations based upon percent of assets, and geographic and customer restrictions) would continue to be applicable to any grandfathered activity or investment.

In addition to maintaining current activities and investments, a service corporation could expand only those activities that it was engaged in on July 1, 1983, and a depository institution investor could expand its investment provided that such expansion conformed with all laws, rules or regulations applicable to service corporations and investments therein that were in effect on July 1, 1983. Consequently, the activities of service corporations would be grandfathered, and investors' grandfather privileges would permit them to invest in service corporations pursuant to the more permissive laws and regulations in effect on July 1, 1983, without regard to the new Service Corporation Act provided by this bill.

The grandfathering authority provided in the sixth provision of Section 25 would terminate with respect to a service corporation at the time it expands into any new activities that were not engaged in on July 1, 1983, or, with respect to an investor depository institution, at the time it invests in a service corporation in a manner not consistent with the laws and regulations applicable to service corporations as of July 1, 1983.

To eliminate the potential for severe financial problems or other adverse impact on the public interest resulting from required divestiture or termination of activities, the appropriate Federal agency may, upon application, authorize the continuation of such service corporation activities or retention of share interest for up to one year. With respect to any application described in the preceding sentence, it is not intended that a loss of potential profit would be sufficient reason for granting such an extension.

Because many thrift institutions are in mutual form, they are unable to expand their nondepository activities through a holding company, as provided in this bill for stock institutions. Accordingly, it seems appropriate to permit thrift institutions in mutual form to continue to make use of the limited service corporation authority available to them on July 1, 1983. Therefore, the seventh provision of Section 25 authorizes a mutual thrift to invest up to three per cent of its assets in intrastate thrift service corporations subject only to laws and regulations applicable to such service corporations on July 1, 1983. Unlike the other grandfathering provisions of this Act, this provision does not merely provide for the maintenance of the status quo; it authorizes all mutual thrifts, whether or not in existence on July 1, 1983, to invest, within the specified limitations, in any thrift service corporation that may engage in all thrift service corporation activities authorized as of July 1, 1983, whether or not it engaged in such activities on July 1, 1983. The operation of and investment in such a mutural thrift service corporation would be subject to FHLBB regulations, including section 545.9 of Title 12 of the Code of Federal Regulations. Thus, for example, the activities of such a mutual thrift service corporation would not be limited to those specified in Section 3 of this new Act, but would include all of those permissible under FHLBB regulations in effect on July 1, 1983.

THE SECRETARY OF THE TREASURY,
Washington, D.C., July 8, 1983.

Hon. GEORGE BUSH,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the Administration I am submitting draft legislation entitled the "Financial Institutions Deregulation Act of 1983" for consideration by the 98th Congress. This proposed legislation represents a substantial step towards a modern and competitive financial system. It is intended to strengthen our domestic financial system and promote a sound foundation for the growth of that system.

Our proposal would authorize all depository institutions—commercial banks, savings banks and savings and loan associations—to expand, through holding companies, the financial services they can offer the public, and thus to compete more effectively with less regulated financial service organizations. Additional competition will provide consumers with more and better financial products and services at lower cost.

Some of the barriers to competition among depository institutions were removed by the Depository Institutions Deregulation and Monetary Control Act of 1980 (P.L. 96-221), which called for the phaseout of the deposit interest rate ceilings, and the Garn-St Germain Depository Institutions Deregulation Act of 1982 (P.L. 97-320), which gave thrift institutions additional investment and lending powers so that they could compete more fully with commercial banks. We are now asking the Congress to go forward and eliminate additional barriers restricting all depository institutions from competing equally and effectively with other financial organizations.

Depository institutions have a unique role in our financial system. Some portion of their deposits are Federally insured, they are vehicles for the implementation of monetary policy, and have access to the Federal Reserve or the Federal Home Loan Bank Board as lenders of last resort. These unique features warrant concern for the safety and soundness of their activities, especially non-banking activities, and enable depository institutions to raise funds at less cost than other financial organizations.

For these reasons, among others, we believe that depository institutions should be able to conduct new financial services only through their parent holding companies or holding company subsidiaries. This framework assures that the funding advantages of depository institutions would not be made available to new activities conducted by other subsidiaries in the holding company which would have to compete for funds on an equal basis with organizations outside the holding company providing similar financial services. In addition, Federal deposit insurance and other government assistance to depository institutions would not be extended to businesses for which such insurance was not originally intended.

We believe the holding company structure is the only appropriate method for expanding depository institution activities and for this reason we oppose the conduct of new financial services activities within depository institutions or within subsidiaries in which the depository institution itself has a direct investment. Our legislation would enable depository institutions to form holding companies more easily and thereby reduce their cost of entering new financial businesses. This simplification is intended to benefit primarily small institutions.

In order to give Congress time to fully consider this proposed legislation the Administration's bill is intended to have a temporary "chilling" effect on depository institution affiliations and expanded activities subsequent to July 1, 1983. Any new aquisition or activity undertaken after this date and before the legislation is passed would have to be divested or restructured to conform with the legislation when finally adopted. Affiliations or activities undertaken prior to July 1 would be grandfathered. Nevertheless, we do not believe that depository institutions or those who wish to acquire depository institutions should avoid new affiliations or expanded activities forever waiting for financial reform legislation to pass. Thus, it is our hope that Congress will act quickly on comprehensive legislation in this area. But if such action is not forthcoming we would propose to modify the effective date of the legislation so that the chilling effect no longer occurs.

The Administration believes that the future structure of the nation's financial system should be designed by Congress and not by individual Federal regulatory action. An economy as complex as ours requires a financial framework that is applicable nationwide but which provides flexibility for other initiatives to keep it sensitive to changing market conditions. We believe our holding company concept provides such a framework. Given the changes taking place in the marketplace and the divergent Federal and state responses to these changes to date, this is not the time to enact a moratorium on innovation. Instead, now is the time for Congress to provide the leadership needed to structure the activities of depository institutions for the future.

This proposed legislation deals with many complex, technical and difficult issues concerning the structure of our Nation's financial system. The debate over the future of the structure of our financial system is one that has been underway for many years. This Administration proposal represents a balanced approach to resolving this debate. We expect an ongoing dialogue with the many interested groups in connection with the bill and the legislative process should bring forth improvements which the Administration is open to consider.

The legislation we are proposing today does not deal with geographic limitations and is not intended to suggest or endorse any particular answer to the question of what agency should ultimately regulate bank holding companies. Later this year, when the Vice President's Task Group on Regulation of Financial Services completes its work the Administration may make recommendations on this latter issue.

With best wishes.

Sincerely,

DONALD T. REGAN.

BOARD OF GOVERNORS,
OF THE FEDERAL RESERVE SYSTEM,
Washington, D.C., July 5, 1983.

Hon. JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs, Washington, D.C.

DEAR CHAIRMAN GARN: The Board has reviewed the draft bill prepared by the Treasury Department to authorize new nonbanking powers for bank and thrift holding companies. The bill would provide for the use of a holding company as the vehicle for the conduct of nonbanking activities by banking organizations. It would extend the existing nonbanking powers of these companies to include services of a financial nature as well as those closely related to banking. In addi-

tion, the bill would authorize certain securities services, insurance and real estate brokerage, real estate development (with limitations on the amount of capital investment) and insurance underwriting.

I have, in numerous public statements, expressed the Board's support for appropriate expansion of nonbanking activities of banks to allow more effective responses to market incentives, provided that these activities and the manner in which they were supervised are consistent with the public policy objectives flowing from the unique role that banks play in our economy. Accordingly, we have been concerned that, as part of the process of powers expansion, account should be taken of prudential considerations and of the need to maintain the basic separation of banking from commercial and industrial activities. Fulfillment of these objectives, and the overriding need to maintain confidence in our banking system requires, we believe, a certain degree of supervision and regulatory oversight.

The provisions of the Treasury bill recognize these objectives and have the support of the Board. In particular, the terms and conditions for the authorization of expanded powers, and the provisions for follow-on supervision and examination, are sufficient to meet our concerns while not unduly limiting the ability of bank holding companies to compete.

As to the powers themselves, while the Board will require additional time to consider fully whether or not any additional criteria for the insurance or real estate authorities might be appropriate, the Board is broadly in agreement with the additional powers contained in the Treasury bill.

Similarly, with respect to S&L holding company powers, the Treasury proposal is an appropriate and reasonable starting point. At this time we have no specific suggestions to improve them. However, we will be giving this matter further consideration, particularly with respect to assuring competitive balance in powers and benefits among institutions offering similar services.

In addition, there are other matters not included in the Treasury proposal on which the Board may wish to suggest legislative action. These subjects include the need for rules to maintain an appropriate degree of coordination between authorities granted under State and Federal law, the possibility of changes in the laws establishing geographic limitations on banking activities, as well as the need to consider, as part of any comprehensive definition of the term bank, authorizing reserve requirements for companies that offer transaction accounts. The Board intends to expedite its consideration of these issues and make recommendations to you in the near future.

In the past, I have often stressed the urgent requirement for positive banking legislation to address the fundamental need to adapt the banking and financial system to a rapidly changing world. To allow the time for Congress to act on permanent legislation, I have previously submitted draft legislation to avoid a preemption of Congressional discretion in this area.

In our view, the Administration's proposal provides a complementary comprehensive approach looking toward effective competition in the provision of financial services while maintaining the nation's basic interest in the soundness and stability of the banking system. I hope the Congress could act quickly on this comprehensive legislation with a view to completing Congressional action by the end of this year.

Sincerely,

PAUL A. VOLCKER,
Chairman.●

ADDITIONAL COSPONSORS

S. 33

At the request of Mr. MATHIAS, the name of the Senator from Kansas (Mr. DOLE) was added as a cosponsor of S. 33, a bill to amend title 17 of the United States Code with respect to rental, lease or lending of motion pictures and other audiovisual works.

S. 400

At the request of Mr. MATHIAS, the name of the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 400, a bill to designate the birthday of Martin Luther King, Jr., a legal public holiday.

S. 551

At the request of Mr. ROTH, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 551, a bill to amend the Tax Reform Act of 1976 to extend, for an additional 4 years, the exclusion from gross income of the cancellation of certain student loans.

S. 738

At the request of Mr. DANFORTH, the name of the Senator from Maine (Mr. MITCHELL) was added as a cosponsor of S. 738, a bill to amend the Economic Recovery Act of 1981 to make the credit for increasing research activities permanent.

S. 752

At the request of Mr. ARMSTRONG, the name of the Senator from California (Mr. WILSON) was added as a cosponsor of S. 752, a bill to authorize certain additional measures to assure accomplishment of the objectives of Title II of the Colorado River Basin Salinity Control Act, and for other purposes.

S. 764

At the request of Mr. WARNER, the names of the Senator from Texas (Mr. BENTSEN), the Senator from Arkansas (Mr. BUMPERS), the Senator from Iowa (Mr. JEPSEN), and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 764, a bill to assure the continued protection of the traveling public in the marketing of air transportation, and for other purposes.

S. 772

At the request of Mr. HATCH, the name of the Senator from Washington (Mr. JACKSON) was added as a cosponsor of S. 772, a bill to promote public health by improving public awareness of the health consequences of smoking and to increase the effectiveness of Federal health officials in investigating and communicating to the public necessary health information, and for other purposes.

S. 780

At the request of Mr. SARBANES, the name of the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 780, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to require the Administrator of the Environmental Protection Agency to maintain a facility for the biological testing of pesticides under such act.

S. 800

At the request of Mr. STEVENS, the name of the Senator from Rhode Island (Mr. PELL) was added as a cosponsor of S. 800, a bill to establish an Ocean and Coastal Development Impact Assistance Fund and to require the Secretary of Commerce to provide to States national ocean and coastal development and assistance block grants from moneys in the Fund, and for other purposes.

S. 829

At the request of Mr. THURMOND, the name of the Senator from North Carolina (Mr. EAST) was added as a cosponsor of S. 829, a bill entitled the "Comprehensive Crime Control Act of 1983."

S. 980

At the request of Mr. WALLOP, the names of the Senator from Iowa (Mr. GRASSLEY), and the Senator from Iowa (Mr. JEPSEN) were added as cosponsors of S. 980, a bill to amend the Federal Mine Safety and Health Amendments Act of 1977 to provide that the provisions of such act shall not apply to the surface mining of stone, clay, and sand work.

S. 994

At the request of Mr. PRYOR, the names of the Senator from Montana (Mr. MELCHER), the Senator from New York (Mr. MOYNIHAN), and the Senator from Pennsylvania (Mr. HEINZ) were added as cosponsors of S. 994, a bill to prohibit the production of lethal binary chemical munitions by the United States and to call on the President to continue and intensify recently begun efforts in the Committee on Disarmament with the Government of the Union of Soviet Socialists Republics and other countries to achieve an agreement establishing a mutual, verifiable ban on the production and stockpiling of chemical weapons.

S. 1080

At the request of Mr. GRASSLEY, the names of the Senator from Mississippi (Mr. COCHRAN), and the Senator from South Dakota (Mr. ABDNOR) were added as cosponsors of S. 1080, a bill to amend the Administrative Procedure Act to require Federal agencies to analyze the effects of rules to improve their effectiveness and to decrease their compliance costs, to provide for a periodic review of regulations, and for other purposes.

S. 1145

At the request of Mr. DENTON, the names of the Senator from Colorado (Mr. ARMSTRONG), the Senator from California (Mr. CRANTSON), the Senator from Kansas (Mr. DOLE), the Senator from Ohio (Mr. GLENN) the Senator from Utah (Mr. HATCH), and the Senator from Wyoming (Mr. SIMPSON) were added as cosponsors of S. 1145, a bill to recognize the organization known as the Catholic War Veterans of the United States of America, Inc.

S. 1170

At the request of Mr. PRYOR, the names of the Senator from North Dakota (Mr. ANDREWS), and the Senator from Maine (Mr. MITCHELL) were added as cosponsors of S. 1170, a bill to establish a Director of Operational Testing and Evaluation in the Department of Defense, and for other purposes.

S. 1276

At the request of Mr. MITCHELL, the names of the Senator from North Dakota (Mr. ANDREWS), and the Senator from Arkansas (Mr. BUMPERS) were added as cosponsors of S. 1276, a bill to provide that the pensions received by retired judges who are assigned to active duty shall not be treated as wages for purposes of the Social Security Act.

S. 1296

At the request of Mr. SPECTER, the name of the Senator from Hawaii (Mr. MATSUNAGA) was added as a cosponsor of S. 1296, a bill to amend the Tariff Schedules of the United States to provide for rates of duty on imported roses consistent with those maintained by the European Economic Community on imports of roses from the United States and other nations.

S. 1305

At the request of Mr. PACKWOOD, the name of the Senator from Arizona (Mr. DECONCINI) was added as a cosponsor of S. 1305, a bill to amend the Internal Revenue Code of 1954 to extend the energy tax credit for investments in certain classes of energy property, and for other purposes.

S. 1306

At the request of Mr. MATHIAS, the names of the Senator from Idaho (Mr. SYMMS), and the Senator from North Carolina (Mr. EAST) were added as cosponsors of S. 1306, a bill to amend the patent law to restore the term of the patent grant for the period of time that nonpatent regulatory requirements prevent the marketing of a patented product.

S. 1356

At the request of Mr. D'AMATO, the name of the Senator from Idaho (Mr. SYMMS) was added as a cosponsor of S. 1356, a bill to amend chapter 37 of title 31, United States Code, to authorize contracts with law firms for the collection of indebtedness owed the United States.

S. 1382

At the request of Mr. STEVENS, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 1382, a bill to amend the Communications Act of 1934 to insure availability of basic telephone service at reasonable rates.

S. 1419

At the request of Mr. SARBANES, the name of the Senator from West Virginia (Mr. RANDOLPH) was added as a cosponsor of S. 1419, a bill to amend title XVIII of the Social Security Act to retain the option of direct reimbursement for all providers under the medicare program.

S. 1435

At the request of Mr. WALLOP, the name of the Senator from Nevada (Mr. HECHT) was added as a cosponsor of S. 1435, a bill to amend the Internal Revenue Code of 1954 to allow a deduction for contributions to housing opportunity mortgage equity accounts.

S. 1462

At the request of Mr. SYMMS, the names of the Senator from North Carolina (Mr. EAST) and the Senator from North Carolina (Mr. HELMS) were added as cosponsors of S. 1462, a bill to provide for an administration of pay of new Government Printing Office employees under the prevailing rate system and the General Schedule, while protecting the pay of present Government Printing Office employees.

S. 1465

At the request of Mr. LUGAR, the names of the Senator from North Dakota (Mr. ANDREWS), the Senator from Nevada (Mr. LAXALT), the Senator from Pennsylvania (Mr. HEINZ), the Senator from Georgia (Mr. MATTINGLY), and the Senator from South Carolina (Mr. THURMOND) were added as cosponsors of S. 1465, a bill to designate the Federal Building at Fourth and Ferry Streets, Lafayette, Ind., as the "Charles A. Halleck Federal Building."

S. 1563

At the request of Mr. STEVENS, the name of the Senator from North Dakota (Mr. ANDREWS) was added as a cosponsor of S. 1563, a bill to amend section 204 of the Federal Property and Administrative Services Act of 1949 to authorize the deposit of cash proceeds from the disposal of excess or surplus property into the general fund of the Treasury for use to retire the national debt.

S. 1566

At the request of Mr. ROTH, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1566, a bill to amend title 5, United States Code, to provide civil penalties for false claims and statements made to the United States, to certain recipients of property, services, or money from the United States, or to parties to contracts with the United States, and for other purposes.

S. 1581

At the request of Mr. DOLE, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1581, a bill granting the consent of Congress to the Central Interstate Low-Level Radioactive Waste Compact.

S. 1584

At the request of Mr. DANFORTH, the name of the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 1584, a bill to amend the Internal Revenue Code of 1954 to conform the treatment of overall domestic losses with the treatment of overall foreign losses and to conform the foreign tax credit carryover and ordering rules with similar investment credit rules.

SENATE JOINT RESOLUTION 19

At the request of Mr. INOUYE, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 19, a joint resolution to authorize and request the President to designate the period August 26, 1983, through August 30, 1983, as "National Psychology Days."

SENATE JOINT RESOLUTION 55

At the request of Mr. MATHIAS, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of Senate Joint Resolution 55, a joint resolution to recognize the pause for the Pledge of Allegiance as part of National Flag Day activities.

SENATE JOINT RESOLUTION 77

At the request of Mr. DOLE, the name of the Senator from South Carolina (Mr. THURMOND) was added as a cosponsor of Senate Joint Resolution 77, a joint resolution designating "National Animal Agriculture Week."

SENATE JOINT RESOLUTION 80

At the request of Mr. HEINZ, the names of the Senator from Kentucky (Mr. FORD), the Senator from Maryland (Mr. MATHIAS), the Senator from Montana (Mr. BAUCUS), the Senator from Illinois (Mr. DIXON), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from New York (Mr. D'AMATO), the Senator from Florida (Mrs. HAWKINS), the Senator from Wisconsin (Mr. KASTEN), and the Senator from Rhode Island (Mr. CHAFEE) were added as cosponsors of Senate Joint Resolution 80, a joint resolution to grant posthumously full rights of citizenship to William Penn and to Hannah Callowhill Penn.

SENATE JOINT RESOLUTION 85

At the request of Mr. THURMOND, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Florida (Mr. CHILES), the Senator from Florida (Mrs. HAWKINS), the Senator from Mississippi (Mr. STENNIS), the Senator from Virginia (Mr. TRIBLE), the Senator from Tennessee (Mr. SASSER), the

Senator from Kentucky (Mr. HUDDLESTON), the Senator from Missouri (Mr. DANFORTH), the Senator from Texas (Mr. BENTSEN), the Senator from Oklahoma (Mr. BOREN), the Senator from Michigan (Mr. RIEGLE), the Senator from Arkansas (Mr. PRYOR), the Senator from Ohio (Mr. METZENBAUM), the Senator from Maryland (Mr. MATHIAS), the Senator from North Carolina (Mr. EAST), and the Senator from Oklahoma (Mr. NICKLES) were added as cosponsors of Senate Joint Resolution 85, a joint resolution to designate September 21, 1983, as "National Historically Black Colleges Day."

SENATE JOINT RESOLUTION 113

At the request of Mr. WILSON, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of Senate Joint Resolution 113, a joint resolution to provide for the designation of the week beginning June 3 through June 9, 1984, as "National Theatre Week."

SENATE JOINT RESOLUTION 116

At the request of Mr. KASTEN, the name of the Senator from Illinois (Mr. PERCY), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from California (Mr. WILSON), the Senator from Washington (Mr. GORTON), and the Senator from Massachusetts (Mr. KENNEDY) were added as a cosponsors of Senate Joint Resolution 116, a joint resolution to designate the week of September 4, 1983, through September 10, 1983, as "Youth of America Week."

SENATE JOINT RESOLUTION 119

At the request of Mr. D'AMATO, the name of the Senator from New Jersey (Mr. BRADLEY) was added as a cosponsor of Senate Joint Resolution 119, a joint resolution to provide for the designation the week of December 11, 1983, through December 17, 1983, as "National Drunk and Drugged Driving Awareness Week."

SENATE JOINT RESOLUTION 127

At the request of Mr. WARNER, the name of the Senator from Nevada (Mr. LAXALT), the Senator from Alaksa (Mr. MURKOWSKI), the Senator from Missouri (Mr. DANFORTH), and the Senator from Indiana (Mr. LUGAR) were added as a cosponsor of Senate Joint Resolution 127, a joint resolution designating the week of May 27, 1984 as "National Tourism Week."

SENATE RESOLUTION 126

At the request of Mr. WALLOP, the name of the Senator from Wisconsin (Mr. PROXMIRE) was added as a cosponsor of Senate Resolution 126, a joint resolution to express the sense of the Senate that the changes in the Federal estate tax laws made by the Economic Recovery Tax Act of 1981 should not be modified.

SENATE CONCURRENT RESOLUTION 52—RELATING TO A UNIFORM IDENTIFICATION METHOD FOR CARS OF HANDICAPPED PERSONS

Mr. DURENBERGER (for himself, Mr. WEICKER, Mr. DOLE, Mr. PERCY, Mr. BOSCHWITZ, Mr. HOLLINGS, Mr. BUMPERS, Mr. RANDOLPH, Mr. NUNN, Mr. GORTON, Mr. ROTH, Mr. KENNEDY, Mr. HEINZ, Mr. ANDREWS, Mr. BRADLEY, Mr. SYMMS, Mr. STAFFORD, Mr. STEVENS, and Mr. HATCH) submitted the following concurrent resolution; which was referred to the Committee on Governmental Affairs.

S. CON. RES. 52

Whereas, in this Nation there exist millions of handicapped people with severe physical impairments including partial paralysis, limb amputation, chronic heart condition, emphysema, arthritis, rheumatism, and other debilitating conditions which greatly limit their personal mobility;

Whereas, these people reside in each of the several States and have need and reason to travel from one State to another for business and recreational purposes;

Whereas, each State maintains the right to establish and enforce its own code of regulations regarding the appropriate use of motor vehicles operating within its jurisdiction;

Whereas, within a given State these handicapped people are oftentimes granted special parking privileges to help offset the limitations imposed by their physical impairment;

Whereas, these special parking privileges vary from State to State as do the methods and means of identifying vehicles used by disabled persons, all of which serves to impede both the enforcement of special parking privileges and the handicapped person's freedom to properly utilize such privileges;

Whereas, there are many efforts currently under way to help alleviate these problems through public awareness and administrative change as encouraged by concerned individuals and national associations directly involved in matters relating to the issue of special parking privileges for disabled persons; and

Whereas, despite these efforts the fact remains that many States may need to give the matter legislative consideration to ensure a proper resolution of this issue, especially as it relates to law enforcement and placard responsibility: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) the Congress encourages each of the several States to—

(1) to adopt the International Symbol of Access as the only recognized and adopted symbol to be used to identify vehicles carrying those citizens with acknowledged physical impairments;

(2) grant only to those vehicles displaying this symbol the special parking privileges which a State may provide; and

(3) permit the International Symbol of Access to appear either on a specialized license plate, or on a specialized placard placed on the dashboard of the vehicle so as to be clearly visible through the front windshield, or on both such places.

(b) It is the sense of the Congress that agreements of reciprocity relating to the special parking privileges granted handicapped persons should be developed and entered into by and between the several States so as to—

(1) facilitate the free and unencumbered use between the several States, of the special parking privileges afforded those people with acknowledged handicapped conditions, without regard to the State of residence of the handicapped person utilizing such privilege;

(2) improve the ease of law enforcement in each State of its special parking privileges and to facilitate the handling of violators; and

(3) ensure that motor vehicles carrying persons with acknowledged handicapped conditions be given fair and predictable treatment throughout the Nation.

● Mr. DURENBERGER. Mr. President, there are currently millions of handicapped citizens in the United States who suffer from severe physical impairments which greatly limit their personal mobility. In order to offset these limitations, many States have granted special parking privileges.

Unfortunately, handicapped citizens are often impeded in their ability to properly utilize the parking privileges because of variations among the States. Law enforcement officials, unable to ascertain different means and methods of identifying vehicles used by disabled persons, unintentionally have issued parking citations to handicapped individuals who have traveled to other jurisdictions.

Although there are efforts currently underway to help alleviate these problems through public awareness and administrative change, many States have yet to give this matter consideration or take action to adopt uniform policies.

In an attempt to encourage States to resolve this problem, I am submitting this concurrent resolution which expresses the sense of the Congress for the need for a uniform symbol of identification, specifically the uniform symbol of access. My concurrent resolution would also encourage States to honor this uniform symbol and grant general reciprocity to persons displaying the symbol and properly using handicapped parking spaces.

Mr. President, I am hopeful that this concurrent resolution will be adopted by the Senate.●

● Mr. PERCY. Mr. President, I am pleased to join in submitting this concurrent resolution expressing the need for a uniform system of identification of vehicles of disabled drivers.

Millions of Americans suffer from physical impairments which limit their personal mobility. However, a great number of these persons utilize private forms of transportation. States have recognized these persons' limitations, and have responded by granting special parking privileges for the handicapped.

Unfortunately, though, law enforcement officials do not always recognize the identification systems used by other States to indicate which vehicles

are allowed to park in the spaces reserved for the disabled. Because of the variations in designation, parking citations have mistakenly been issued to disabled individuals who have traveled to other jurisdictions. This has resulted in wasted time and expense on the part of the police and the courts, and frustration on the part of disabled drivers.

A national system of vehicle identification as we are encouraging with this concurrent resolution, will help alleviate this problem. Travel for the disabled will be facilitated, and the provision of a clear designation of vehicles eligible for reserved handicapped parking areas will reduce confusion for local police departments. This, in turn, will assist enforcement of the special parking provision.

I urge my colleagues to join us in support of this important resolution to encourage the use of the international symbol of access as a uniform symbol of identification for the vehicles of disabled drivers, and I hope that the States will adopt it as swiftly as possible.●

AMENDMENT SUBMITTED

DEPARTMENT OF DEFENSE AUTHORIZATION, 1984

BYRD AMENDMENT NO. 1458

Mr. BYRD proposed an amendment to the bill (S. 675) authorizing appropriations for fiscal year 1984 for the Armed Forces for procurement, for research, development, test, and evaluation, and for operation and maintenance, to prescribe personnel strengths for such fiscal year for the Armed Forces and for civilian employees of the Department of Defense, and for other purposes, as follows:

On page 158, between lines 8 and 9, insert the following new section:

PROHIBITION AGAINST USING FUNDS APPROPRIATED FOR THE ADVANCE TECHNOLOGY BOMBER PROGRAM FOR ANY OTHER PURPOSE

SEC. 1026. None of the funds appropriated pursuant to an authorization of appropriations in this Act to carry out the Advanced Technology Bomber program may be used for any other purpose.

GOLDWATER AND PRYOR AMENDMENT NO. 1459

Mr. GOLDWATER (for himself and Mr. PRYOR) proposed an amendment to the bill S. 675, supra as follows:

On page 24, after line 21, insert the following:

Of the amount authorized for Air Force Research and Development not less than $22,477,000 shall be available for research and development of Training and Simulation Technology.

WARNER AMENDMENT NO. 1460

Mr. WARNER proposed an amendment to the bill S. 675, supra, (which was subsequently amended by unanimous consent) as follows:

Add a new section at the appropriate place in the bill the following:

"Of the funds authorized to be appropriated pursuant to Section III of this Act, $20.5 million shall be available for research and development by the Department of the Army for the Military Computer Family. The Secretary of Defense shall make offsetting reductions in lower priority computer application projects authorized in this Act."

DOLE AMENDMENT NO. 1461

Mr. TOWER (for Mr. DOLE) proposed an amendment to the bill S. 675, supra, as follows:

At the appropriate place in the bill insert the following:

LIMITATION ON PRODUCTION OF CERTAIN WEAPON SYSTEMS

SEC. . (a) None of the funds appropriated pursuant to an authorization contained in this Act may be obligated or expended to commence or carry out the full-scale production of any weapon system which has not successfully completed operational testing, until the date on which the Secretary of Defense has transmitted to the Congress a notice as provided in subsection (b).

(b) Each notice transmitted under subsection (a) shall be in writing and shall include a statement that the Secretary intends to commence and carry out the full-scale production of such weapon system, a description of the problems with the weapon system revealed by the operational testing, and a discussion of the risks and the benefits associated with commencing and carrying out full-scale production of the weapon system before operational testing of the weapon system is successfully completed.

TOWER AMENDMENT NO. 1462

Mr. TOWER proposed an amendment to the bill S. 675, supra, as follows:

On page 234, between lines 7 and 8, insert the following new section:

AUTHORITY TO USE FUNDS FOR PROJECT 92-D-109

SEC. 303. Notwithstanding any other provision of law, the Secretary of Energy may obligate and expend funds to carry out Project 82-D-109 if the President approves the use of funds for such project and certifies to the Congress in writing that such project is essential to the national security.

JOHNSTON AMENDMENT NO. 1463

Mr. JOHNSTON proposed an amendment to the bill S. 675, supra, as follows:

At the appropriate place in the bill insert the following:

SEC. . (a) Section 1079(a) of title 10, United States Code, is amended—

(1) by striking out the period at the end of clause (5) and inserting in lieu thereof a semicolon and "and"; and

(2) by adding at the end thereof the following:

"(6)(A) liver transplant operations for dependents under age 18 may be provided at hospitals which have been approved for such purposes by the Secretary of Defense and deemed appropriate based upon demonstrated rates of survival and demonstrated abilities to perform the operation after consulting with the Secretary of Health and Human Services and such other parties as the Secretary deems appropriate; and (B) such costs as the Secretary of Defense, after consulting with the Secretary of Health and Human Services, considers appropriate for the acquisition and transportation of any liver donated for any liver transplant operation provided under any such contract may be paid by the Department of Defense under such contract.".

(b) Notwithstanding any other provision of law, the Secretary of Defense or his designee shall take such action as is necessary in the case of contracts entered into before the date of enactment of this Act, including modifying such contracts and making advance payments under such contracts, to provide under such contracts for liver transplant operations and payments authorized by section 1079(a)(6) of title 10, United States Code (as added by subsection (a)).

GOLDWATER AMENDMENT NO. 1464

Mr. GOLDWATER proposed an amendment to the bill S. 675, supra, as follows:

At an appropriate place in the bill insert the following new section: Sec. XX. Subsection (b) of section 401 of the GI Bill Improvements Act of 1977 (Public Law 95-202; 91 Stat. 1449; 38 U.S.C. 106 note) is amended by adding at the end thereof the following new paragraph:

"(3) Under regulations prescribed by the Secretary of Defense, any person who is issued a discharge under honorable conditions pursuant to the implementation of subsection (a) of this section may be awarded any campaign or service medal warranted by such person's service.".

(b) The amendment made by subsection (a) of this Act shall apply to all persons issued discharges under honorable conditions pursuant to section 401 of the GI Bill Improvements Act of 1977, whether such discharges are awarded before, on, or after the date of enactment of this Act.

SPECTER (AND OTHERS) AMENDMENT NO. 1465

Mr. SPECTER (for himself, Mr. D'AMATO, and Mr. HEINZ) proposed an amendment to the bill S. 675, supra (which was subsequently corrected by unanimous consent), as follows:

At the end of the bill insert:

Since relations between the United States and the Union of Soviet Socialist Republics are currently characterized by considerable tension;

Since on-going nuclear arms negotiations on strategic and theater force reductions being conducted by the duly appointed representatives to the respective parleys have not achieved satisfactory results to date;

Since a carefully prepared summit could facilitate the accomplishment of the objectives of these negotiations and lead to a reduction in the risk of nuclear war;

Since a carefully prepared summit could also lead to progress in resolving other major issues troubling relations between the two superpowers;

Since both President Reagan and President Andropov have indicated their willingness in principle to participate in such a carefully prepared summit;

It is the sense of the Senate that the President of the United States and the President of the Union of Soviet Socialist Republics should meet at the earliest practical time to discuss major issues in U.S.-Soviet relations and to work for the realization of mutual, equitable and verifiable reductions in nuclear arms.

NOTICES OF HEARINGS

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. ROTH. Mr. President, the Senate Committee on Governmental Affairs will hold a nomination hearing for Bruce Beaudin and Franklin Burgess to be Associate Judges for the Superior Court of the District of Columbia and Judith W. Rogers to be Associate Judge for the Court of Appeals of the District of Columbia on Wednesday, July 20, 1983 in room SD 342 of the Dirksen Senate Office Building. For further information, please contact Ms. Margaret Hecht at 224-4751.

SUBCOMMITTEE ON WATER AND POWER

Mr. NICKLES. Mr. President, I would like to announce for the information of the Senate and the public the cancellation of the Water and Power Subcommittee hearing previously scheduled for Tuesday, July 19 at 10 a.m. to receive testimony on S. 752, relating to the Colorado River Basin Salinity Control Act. The hearing will be rescheduled on a date to be announced later.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON NUTRITION

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Nutrition of the Committee on Agriculture, Nutrition, and Forestry be authorized to meet during the session of the Senate on Tuesday, July 12, to hold an oversight hearing on the commodity distribution program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AGING

Mr. STEVENS. Mr. President, I ask unanimous consent that the Subcommittee on Aging of the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Tuesday, July 12, to hold a hearing on judicial access and the elderly.

The PRESIDING OFFICER. Without objection it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet in closed session on Tuesday, July 12, to receive a briefing from Secretary Shultz discussing his recent trip.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WATER RESOURCES

Mr. TOWER. Mr. President, I ask unanimous consent that the Subcommittee on Water Resources of the Committee on Environment and Public Works be authorized to meet during the session of the Senate on Tuesday, July 12, to hold a hearing on authorization of small watershed projects.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, July 13, in order to receive testimony concerning nominations for the Civil Rights Commission.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON LEGISLATION AND THE RIGHTS OF AMERICANS

Mr. BAKER. Mr. President, I ask unanimous consent that the Subcommittee on Legislation and the Rights of Americans of the Select Committee on Intelligence be authorized to meet in closed session on Wednesday, July 13, to hold a hearing on intelligence matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LEGAL RIGHTS OF FARMERS UNDER PIK

● Mr. BUMPERS. Mr. President, the payment-in-kind program is the most extensive and the most expensive production control program ever administered by the U.S. Department of Agriculture. USDA required participants to enter into a legally binding contract in order to obtain benefits under the PIK program, so it is also a very complicated and potentially confusing program for farmers.

A number of legal problems have already arisen in the administration of the program—for example, the problem concerning the income tax treatment of PIK benefits that Congress had to resolve in March. And there will be additional difficulties in administering PIK. Problems such as the tax controversy, and others such as the decision to use the "plant for PIK" provisions of the contract could have a serious affect on the level of benefits participating farmers receive.

For these reasons, it is important that all farmers be aware of their legal rights under PIK. Neil D. Hamilton of the University of Arkansas School of Law agriculture law program has written an article which sets out in a clear and concise fashion what PIK participants need to know about appealing decisions made by their local ASCS committee. I ask unanimous consent to have this article printed in the RECORD following my remarks. This information should be of benefit to all participants who may be affected by the decisions of the local ASCS committee, and should assist USDA in administering the PIK program so as to insure that all participants are treated equitably and fairly.

A different version of this article, which I ask to have printed in the RECORD, was published in Successful Farming, copyright Meridith Corp. (1983), all rights reserved.

The article follows:

WHAT PIK PARTICIPANTS NEED TO KNOW ABOUT APPEALING ASCS COMMITTEE DECISIONS

The high level of participation in the payment-in-kind (PIK) program throughout the country means that PIK will be the single largest production control program ever administered by the USDA. Like other production control programs the PIK program is being administered locally by the county Agricultural Stabilization and Conservation Service committees. It will be the responsibility of these committees to determine who is eligible to participate and who has complied with the program requirements, and then see that these individuals are paid according to the PIK contract. The widespread farm enrollment in PIK means that most farmers will be dealing with their local ASCS committee and will be affected by the determinations made by that committee. Examples of the types of important decisions that a local ASCS committee can make regarding the PIK program include: determinations of compliance with acreage reduction requirements, resolution of tenant complaints against landlords, qualification of uses as conservation uses, determining the amount and the location of grain being received as PIK payment and certifying compliance with the PIK contract requirements.

Because local ASCS committee decisions can determine the amount of benefits a producer will receive or whether he receives any benefits at all, it is important that a producer be aware of the legal rights he has to appeal or request reconsideration of a determination made by the local committee. This is especially true as to the administration of the PIK program for several reasons. Although one hopes that PIK will work smoothly, because the program is new and unique, the administration of the PIK program is being developed by the USDA on a day by day basis. As a result one can expect that more than the usual number of legal and administrative questions, such as the recent flap in Congress over tax treatment of PIK benefits, will develop as the PIK program is carried out. Second, unlike other price support programs, the PIK program is based on a binding contract between the farm producer and the USDA. This contract creates a much more formalized relationship and grants the USDA substantial legal rights to require farmers to conform to PIK program guidelines or pay a penalty for not doing so. All of these factors, the newness of the PIK program, and the importance of the local ASCS decisions, means that the local producer needs to be aware of his legal rights including the right to appeal local de-

cisions to insure that he receives the benefits that he is entitled to receive.

The law requires that the ASCS make available to producers a procedure whereby determinations of the local ASCS committee may be appealed. This right is found in the law authorizing the PIK program, in the federal regulations implementing the program, and in the documents the farmer signed when enrolling in PIK. The form farmers received explaining the PIK program provides a general statement of appeals rights and provides:

Appeal Rights. Producer may appeal to the County Committee for reconsideration of any decision that the Committee makes concerning participation in the program. The appeal must be in writing and be filed within 15 days of the date of notification of the decision.

The actual contents of the farmers appeal rights are found in the Code of Federal Regulations (7 CFR Part 780). There are several important aspects of the appeal rights. These relate to questions of:

Who can appeal;

In what form must the appeal be made;

When must the appeal be made;

What type of hearing will be held on an appeal;

How far can a producer appeal.

WHO CAN APPEAL

The ASCS appeal procedures are available to any "producer or participant" which means any person whose right to participate or receive payments is affected by a determination of the county committee, State committee or Deputy Administrator of ASCS.

TYPES OF APPEAL

There are two forms of appeal that a producer can make. These are (1) reconsideration of an initial decision by the party making the initial decision; (2) appeal of a reconsideration to the next highest reviewing authority in the agency.

Any producer or participant who is dissatisfied with an initial decision made by the local or state ASCS committee can request that body to reconsider the initial decision. If the producer is dissatisfied with the result of the reconsideration (for example, the county committee reaffirms its initial decision) then the producer can appeal that action to the next highest level. An appeal of a county committee's reconsideration would be to the state committee. An appeal of the state committee's reconsideration of its own decision, or of its decision on an appeal of a county committee reconsideration would be made to the Deputy Administrator of ASCS.

HOW TO APPEAL

A producer or participant begins an appeal or reconsideration in the same manner, by filing a written request with the county committee. This request must be in writing, signed by the producer or participant and must be supported with facts, which may be submitted with the request or at a later time. The producer or participant can request one of two types of review:

(1) An informal hearing before the local committee; or

(2) A determination to be made by the reviewing authority, without a hearing on the basis of written material submitted by the party.

WHEN TO REQUEST AN APPEAL

A request for a reconsideration or an appeal must be made within 15 days after the written notice of the determination that is being appealed, is mailed or otherwise made available to the producer or participant. The reviewing authority does have the power to consider a request made later than 15 days if in its judgment the circumstances warrant such action or if the request was delayed because it was filed with the wrong reviewing authority.

NATURE OF THE HEARING

If a hearing is requested it will be held at a time and place designated by the reviewing authority and conducted in a "manner deemed most likely to obtain the facts relevant to the matter in issue." Producers or participants have a number of rights concerning the handling of the informal hearings:

(1) They must be advised of the issues involved;

(2) They or their representative, such as an attorney, must be given a full opportunity to present facts and information, both oral and documentary relevant to the matter;

(3) They have the right to question other witnesses the reviewing authority may use;

(4) They have the right to obtain a verbatim transcript of the hearings, but only if:

(a) They request it prior to the hearing, and

(b) Agree to pay for the expenses, or

(c) If the reviewing authority feels the nature of the case is such "as to make such a transcript desirable".

FORM OF THE RECORD

In cases where a transcript is not made, the reviewing authority is required to make a record of the hearing. This record must be in writing and contain a clear, concise statement of the facts as asserted by the party and as found by the reviewing authority, the names of the interested parties appearing at the hearing, and the identity of the documents presented into evidence. Prior to its decision, the reviewing authority can ask the producer to present additional evidence and may develop additional evidence from other sources.

DETERMINATION OF AN APPEAL

After a hearing or review has been held on a request for reconsideration or appeal, the decision maker must notify the producer or participant, in writing, of the determination and the basis for it. The decision can be to:

(1) Affirm;

(2) Modify; or

(3) Reverse, any determination made by it initially or by a lower body, or the decision can be to send the matter back to the lower body for reconsideration. If a party is dissatisfied with the determination it can ask the reviewing authority to reopen the hearing, for any reason it deems appropriate, as long as the matter has not been appealed to or considered by a higher body. The reviewing authority can also reopen a matter on its own motion.

HOW MANY APPEALS

If the producer is appealing the decision of the local committee it appears that there are 3 levels of appeal available:

(1) Request the local committee to reconsider the initial decision;

(2) Appeal of that reconsideration to the state committee;

(3) Appeal of state committee decision to the Deputy Administrator. A decision of the Deputy Administrator is not appealable within the agency. However, the law does provide that senior officials in the USDA, such as the Secretary or Administrator of the ASCS, can on their own motion:

(1) Determine any question arising under the programs to which the regulations apply; or

(2) Reverse or modify any determination made by a state or county committee or the Deputy Administrator.

This means that even though the Deputy Administrator is the last level of appeal that a producer has as a matter of right, he can communicate with senior USDA officials to convince them to review the lower decision.

Of course there is one final appeal right that a producer may have and that is to appeal the ASCS determination in federal court. There are two important points to remember about court appeals of ASCS actions:

(1) The producer must have used all the available agency appeal steps; and

(2) The law provides that agency determinations of factual questions are final and not appealable.

This means that the only questions that can be appealed to court are legal questions such as the way a program is being administered, or the interpretation of a provision. It must be remembered that if one has the right to an appeal but does not use it or does so improperly the right can be lost. This is true when dealing with ASCS. The appeals procedure discussed above provides an important protection to a farmer's right to participate in government farm programs. While no one likes to become involved in legal disputes, if a dispute over eligibility to participate in a government farm program should arise, farmers should be aware of the rights made available to them to protect their interests. Anyone who feels he has been unfairly or illegally treated under a farm program, such as PIK, should consider contacting his attorney and the ASCS about appealing that decision.●

A GROWING STORM OVER INTEREST RATES

● Mr. BIDEN. Mr. President, the critical issue of interest rates is one that will not go away.

Interest rates in the United States have been at unreasonably high levels for 4 years now. Last summer, nominal interest rates began to recede as inflation fell. As welcome as that interest rate relief was, it is a fact that real interest rates—interest realized after inflation—have not fallen much, if any. Yet despite these high levels of real interest, the economy has clearly begun a recovery.

But now nominal and real interest rates are beginning to climb again, despite favorable inflation rates. Most ominously, mortgage rates are rising again, as symbolized by the recent increase in the FHA rate to 12.5 percent just last week. Conventional mortgage rates have seen a similar increase. The question is, Can we realize the needed levels of business investment to make this recovery a strong and lasting one, if interest rates are rising from already high levels? Can we have the broad housing market recovery, the level of auto sales, the extent of consumer activity that are required to assure continued recovery in all segments of our economy?

Given the extent of the recovery so far in the face of high real interest rates, the answers to those questions are not crystal clear. But the likelihood according to most economists is that the recovery cannot continue strongly if interest rates climb much further. Nor is it completely clear what the answers are to keeping interest rates down. However, it is clear that we must work to reduce Federal deficits even faster than provided in the recently passed budget resolution.

In the New York Times this past Sunday, July 10, 1983, there was an interesting article by H. Erich Heinemann discussing this very problem. Because of the importance of this issue to the economic health of the country, and to the millions of still unemployed individuals, I ask that the article, entitled "A Growing Storm Over Interest Rates" be printed in the RECORD.

The article follows:

[From the New York Times, July 10, 1983]

A GROWING STORM OVER INTEREST RATES

(By H. Erich Heinemann)

Next Thursday, when Paul A. Volcker rides up to Capitol Hill to testify on his renomination as chairman of the Federal Reserve, he might well ask himself how he got into such a predicament. If there was ever a time when the chairmanship of the Federal Reserve System was a thankless task, this is it.

Even before Congress formally approves him for the post, Mr. Volcker is caught smack in the middle of a politically explosive confrontation with the White House over interest rates—and more specifically over what the Fed should do about the discount rate, the interest it charges members banks for loans.

Several regional Federal Reserve banks have reportedly proposed that the discount rate be raised to 9 percent from 8.5 percent. In part, the move would simply reflect the recent rise of interest rates in the open market; but it would presumably also provide a signal of the Fed's determination to fight inflation by dampening the rapid money supply growth that has prevailed in recent months.

Proposals to lift the discount rate are frequently made by regional reserve banks, only to be rejected or deferred by the Federal Reserve Board in Washington, which has the final say. However, Larry Speakes, the Presidential spokesman, was not taking any chances last week. "We don't want the discount rate raised," he said flatly.

This episode has the basic elements of good political theater. But there are fundamental bread-and-butter issues in the contretemps that will surely confront Mr. Volcker on Capitol Hill next week. Will interest rates continue to increase? What effect will the jump in credit costs of a percentage point or more over the last two months have on the economy? Does the Fed intend to tighten up?

Worries over interest rates are common these days—and perhaps realistic. Higher interest rates, says Robert H. Parks, chief economist for the brokerage firm of Moore, Schley & Cameron, could well cause the recovery to "self-destruct" and produce another recession by next spring. This is a minority view at present, but economists generally seem to be agreed that if—contrary to expectations—the cost of credit should keep climbing as it has during the past two months, then the recovery could, indeed, be in trouble.

The monumental task before the Administration and the Federal Reserve is to keep the economy rolling, yet at the same time to keep the genie of inflation safely inside its bottle. Without doubt, the issue will stay in the headlines this summer. The Fed's Open Market Committee will be debating the central bank's role in meeting this challenge during a closed session Tuesday and Wednesday; Mr. Volcker will testify on his renomination Thursday and he will return to the Hill the next Wednesday to spell out Fed policy plans for the next 18 months, as required by the Humphrey-Hawkins Act.

The story behind the confrontation between the White House and the Fed began almost exactly a year ago. Then, faced with a stagnant domestic economy, unemployment moving toward a post-depression record and the risk that billions of dollars in debts owed by developing countries would go unpaid, the Fed began to pump money into the American economy.

Within a few weeks, the medicine started to take effect: Interest rates tumbled and the stock market surged. Both moves set the stage for the recovery in real activity now taking hold in the United States and other industrial economies, and helped to postpone at least temporarily a major crisis in overseas financial markets.

More recently, however, the easy money medicine has begun to produce some toxic side effects. Participants in the financial markets have become concerned about the risk of renewed inflation. And there is a threat of a continuing rebound in interest rates that could dampen the revival in economic activity on which Mr. Reagan is pinning his hopes for re-election.

Since early May, yields in the open market on Government and corporate obligations have risen by about a percentage point. More relevant to the average American, the rate on conventional fixed-rate home mortgages purchased by the Federal National Mortgage Association in its regular weekly auctions stood at 13.65 percent last Wednesday, up from 12.3 percent on May 11. According to Timothy Howard, vice president and chief economist at Fannie Mae, if these market rates do not recede soon it will only be a matter of time until there is a similar increase in posted mortgage rates actually paid by homebuyers.

Now that the Reagan Administration—and many Congressional leaders, too—have made clear that they want to keep a lid on interest rates, Mr. Volcker may well come in for criticism no matter what he does. If he tries to slow the rapid rate of monetary growth and tighten policy, interest rates are likely to rise further. If he allows the money supply to keep surging, inflationary expectations will rise, which will also push rates up—possibly to even higher levels than the slower-money growth strategy.

Despite the political meddling with Federal Reserve policy—by an Administration nominally committed to preserving the central bank's traditional independence—the fact remains that the forces driving interest rates in recent weeks are acquiring a momentum of their own.

The year-long move to easy money along with a highly expansive fiscal policy have generated a strong economic recovery, and with it the beginning of an upturn in the overall demand for credit and rising inflationary expectations. If the Fed were to try to hold down interest rates in this environment, as J. Charles Partee, a Fed board member, put it in a classic statement several years ago, these efforts "would inevitably generate more rapid monetary expansion, thereby feeding new inflationary pressures."

Mr. Partee warned that "any serious effort" by the Federal Reserve to peg interest rates at a predetermined level would most likely produce results "quite perverse from the standpoint of economic stabilization." The Fed would end up supplying too much money to the economy during periods of expansion, he said, and too little during periods of contraction.

The Fed's job is complicated, too, by the chorus of politicians, economists and bankers, at home and abroad, demanding that the United States act now to lower, not raise, the cost of credit. For example, Representative James C. Wright Jr. of Texas, the Democratic leader in the House, has introduced legislation backed by more than 100 co-sponsors to require the Federal Reserve to establish targets for real, inflation-adjusted interest rates.

Overseas, French officials—among others—are telling anyone willing to listen that the United States has been using high interest rates to suck savings from the rest of the world in order to finance its swollen budget deficit. This emasculates investment and economic recovery in the industrial countries in Europe, the French charge, and compounds the difficulties of developing countries struggling to pay overdue debts.

Within the Federal Reserve itself, Mr. Volcker and his colleagues have been in a quandary over how to conduct monetary policy to achieve the goals of lower interest rates and noninflationary economic expansion that all agree are desirable. The Fed's three-year experiment with setting targets for growth in the money supply was largely abandoned last fall, but no new consensus has emerged on what should take its place.

Benjamin M. Friedman, professor of economics at Harvard, charges that the Fed's operating procedure between October 1979 and October 1982 led to a big increase in the volatility of interest rates, but without an improvement in control of the money supply, "nor for that matter, any other apparent gain." Interest rates have been more stable this year than last, but at the cost of a steady acceleration in monetary growth.

Meanwhile, the Treasury's huge borrowing requirement—more than $200 billion at a seasonally adjusted annual rate this summer—hangs like a cloud over the credit markets. "The most important and the most urgent task for policy is to exert downward pressure on U.S. interest rates," says Günther Schleiminger, general manager of the Bank for International Settlements, the central banks' central bank in Basel, Switzerland. This falls "fairly and squarely," he said, "on the shoulders of those in charge of fiscal policy."

Despite these concerns, the most common view is still that the rise in rates since early May is a temporary affair. According to Robert J. Eggert, an economic consultant based in Sedona, Ariz., who conducts regular monthly surveys of professional forecasters, "a relatively flat pattern in both short- and long-term interest rates continues to be the consensus forecast.

"Except for the prime rate," he continued, "the latest roundup even suggests a slight easing from the percentage-point advance in most rates during the past several weeks."

The 41 participants in Mr. Eggert's survey expect that the prime rate, which is now 10.5 percent, will average 10.9 percent in the first quarter of next year, while other market rates will be essentially unchanged from late-May levels.

But Mr. Eggert cautioned that "there is an unusually wide range" in the individual forecasts that make up this view, "which in the past has tended to diminish the accuracy of the average."

There are no precise calculations of the flash point at which rising interest rates will begin to choke off economic activity, but economists are agreed that it is not far above present levels. Since last summer, interest rates in the United States have retreated only partly from the bone-crushing levels that were reached during the turbulent period from 1980 through 1982.

At their low points in May, yields on Government bonds, high-grade corporate obligations and Federally-insured home mortgages were all still in double digits—levels that would have been considered severely restrictive only a few years ago.

Plainly, credit costs are as critical to the economic outlook as they are to Mr. Volcker's political position in Washington. The business sectors that have played the largest role in the upturn this year—housing, autos and inventory investment—are all highly sensitive to actual and anticipated interest rates. This is also true of corporate investment in fixed plant and equipment, which sooner or later will have to came back on stream if the recovery is to be sustained.

Moreover, some analysts question whether there has been any decline all in real, inflation-adjusted interest rates, a factor that may have the greatest influence of all on economic activity. Calculations by the Bank for International Settlements indicate that real bond yields averaged 7.5 percent in the United States during the first quarter of 1983, up from 6.5 percent in 1982, 3.2 percent in 1981 and a negative real return of 1.8 percent in 1980. Over the decade from 1963 through 1972, real bond yields in the United States averaged 2.7 percent.

Equally important, according to the B.I.S. data, real interest rates in this country appear to be significantly higher than comparable rates in other industrial nations. The high real return on dollar assets has attracted investment funds to the United States, which in turn has led to sustained overvaluation of the dollar in the foreign exchange markets and sustained weakness in exports of American products.

The 1983 annual report of the B.I.S., which generally reflects the views of the European financial establishment, was published last month. In effect it presented a menu of factors that the Administration and the Federal Reserve will have to deal with if the "unusually high" level of real interest rates in the United States is to be reduced. The report cited three factors in particular:

An "inappropriate policy mix," which is economic jargon for the oversized Federal deficit.

A growing weakness in corporate balance sheets, which has raised the "risk premium" in interest rates paid by corporate borrowers to compensate for possible credit defaults.

A persistent doubt "whether a resurgency of inflation can be avoided."

"The Federal Reserve could no doubt push down short-term interest rates," said Mr. Schleiminger of the B.I.S., "but it is highly improbable it could keep them low." Simply accommodating the Treasury's borrowing needs, he said, would be "a sure recipe for a revival of inflationary expectations. . . . To create conditions for a lasting recovery, the burden of initiative lies on fiscal policy," including both lower expenditures and higher taxes.

If this analysis is correct, then Mr. Volcker's course is perilous. He is sure to be held accountable by the politicians for what happens to interest rates. But whether rates actually come down could depend as much on what happens in the White House and on Capitol Hill as at the Fed.●

THE CLOSE FRIENDSHIP BETWEEN THE UNITED STATES AND THE NETHERLANDS

● Mr. LUGAR. Mr. President, during the Memorial Day recess, I led a delegation of the U.S. Senate to Europe. During the trip, we participated in a moving ceremony commemorating the more than 8,300 Americans who died in World War II liberating Europe.

The mayor of Margraten, Michiels van Kessenich, presented to our delegation a commemorative plate celebrating more than 200 years of friendship between the United States and the Netherlands. On behalf of the delegation, I would like to present the plate to the U.S. Senate and display it permanently in the Senate Foreign Relations Committee.

I am confident that the past 200 years are indicative of the close friendship which will continue between the peoples of the United States and the Netherlands.●

THE NEED FOR STATISTICAL RESPONSIBILITY

● Mr. SASSER. Mr. President, I would like to take just a few moments to bring to the attention of my colleagues an article which appeared in the June 19 edition of the Washington Post. The article was written by Mr. Robert Greenstein, who is the director of the Center on Budget and Policy Priorities in Washington, D.C.

I believe Mr. Greenstein touches upon a most appropriate issue. It has to do with the way in which different people are able to employ the same set of statistics, yet arrive at very different results. Not only does the article raise ethical questions concerning manipulation, it raises the larger question concerning the possibility of deliberate misrepresentation.

The celebrated revelations of Budget Director Stockman in the September 1981 Atlantic Monthly article raised serious doubts about the credibility and accuracy of the numbers developed by the administration's most prominent economic forecasting arm, the Office of Management and Budget. Mr. Greenstein, in his article, points out that the imaginative energies of the OMB are still very much intact.

As a member of the Senate Budget Committee, I am all too well aware of the reliance we have upon accurate statistical projections. They are, to a very large extent, the very lifeblood of the budget process. As such, enormous Federal budget deficits are to a certain degree the product of projections based on faulty assumptions.

We must insure that our statistical projections are as accurate as humanly possible. Yet, as Mr. Greenstein points out, it appears as though the OMB and Mr. Stockman are treating with casual disregard the rigorous standards of statistical preparation, analysis and projection implicit in OMB's missions and explicitly outlined in the Congressional Budget Act of 1974.

The message is clear: In order to conduct the business of the country in a professional and responsible manner, we cannot afford to have business as usual at the OMB. It is now time to take this business seriously, and I implore Mr. Stockman to do so.

Mr. President, I ask that the article by Mr. Greenstein be printed in the RECORD.

The article follows:

STOCKMAN IS STILL COOKING THE NUMBERS—NOW HE WANTS US TO BELIEVE REAGAN IS FAIR

(By Robert Greenstein)

David Stockman is at it again. After he confessed to rigging the computers in 1981 to make the prospective Reagan deficits shrink, one would have thought that the budget director had had his fill of numbers juggling. But it was not to be. This time, of all things, Stockman has been fiddling with figures in the hope of demonstrating how fair the Reagan administration really is in its treatment of rich and poor.

Stockman unveiled his latest statistical wizardry before the Congressional Joint Economic Committee last month. He came fully equipped with charts, each to illustrate a remarkable assertion.

Claim 1: The poor have been affected only marginally by Reagan administration budget cuts. Indeed, if all of its proposed cuts for fiscal 1984 were enacted, Stockman contended, low-income benefit programs (food stamps, Medicaid, low income housing, child nutrition, Supplemental Security Income and Aid to Families with Dependent Children) would still be reduced only 5 percent below the levels sought by Jimmy Carter.

Claim 2: Large parts of programs for the needy weren't serving the poor anyway. Before the Reagan cuts, Stockman maintained, more than two-fifths of the benefits of low-income programs went to families with incomes exceeding 150 percent of the poverty line.

Claim 3: The wealthy really were not the big winners in the 1981 tax-cut act. In fact, he asserted, they had received less than 1 percent of the benefits.

It was an impressive performance, even it was based on some peculiar evidence.

Start with Stockman's contention that actual spending for low-income benefit programs in fiscal 1982 and 1983—plus Reagan's proposed spending for fiscal 1984—is only 5 percent below the levels sought in these years in the last Carter budget.

Here Stockman has deftly made use of the high unemployment experienced under the Reagan administration in an effort to bolster his case. The costs of a number of these basic benefit programs vary with unemployment levels—when more people are out of work, the number of households qualifying for the programs multiplies and program costs rise. By one estimate, for example, food stamp costs rise about $600 million for every percentage-point increase in the jobless rate.

The Reagan budget numbers Stockman cited reflect the impact of 10 percent unemployment on the costs of these programs. By contrast, the Carter budget numbers used by Stockman were calculated back in 1981, based on projections that unemployment would average only about 7 percent in the 1982-84 period. The result: Stockman was able to use the additional costs in the Reagan budget stemming from higher unemployment to make Reagan's spending levels look closer to Carter's—thereby making the Reagan cuts appear smaller than they actually are.

Stockman was not content to stop his strange comparison there. Further manipulations occurred when he adjusted the Carter and Reagan budgets for inflation, converting both to "constant 1981 dollars."

To do this, Stockman adjusted downward both the actual Carter and the actual Reagan budget numbers for 1982, 1983 and 1984. He reduced the projected Carter spending levels for 1983 by 16 percent—since the Carter budget had projected that prices in 1983 would be 16 percent higher than in 1981. And he adjusted the Reagan numbers for 1983 downward by just 10 percent—the inflation level for 1981-1983 reflected in the Reagan budget. Since the Carter numbers were reduced by larger percentages than the Reagan numbers, this made Carter spending levels appear smaller in relation to Reagan's.

To be sure, such adjustments are valid in most cases—but not for two of the major programs, Medicaid and subsidized housing.

Medicaid budgets are based on projections of inflation in health care costs rather than on projections of the overall inflation rate. When you do the proper inflation adjustment—using health care costs rather than overall inflation—you discover that the Reagan Medicaid cuts are about $2 billion deeper for the 1982-1984 period—or more than double what Stockman indicated.

Equally egregious was Stockman's manipulation of the housing numbers. A substantial portion of federal outlays for subsidized housing consists of fixed costs under long-term contracts for construction or rehabilitation. These costs do not vary with inflation any more than a homeowner's fixed monthly mortgage payments do. Stockman had no business adjusting these fixed costs for inflation. However, Stockman adjusted these costs anyway, and reduced the fixed payments in the Carter housing budget by a greater percentage than he reduced the identical fixed payments in the Reagan budget.

This bit of legerdemain made it appear that Ronald Reagan—whose administration has cut billions from new appropriations for subsidized housing, raised rents for all 3.5 million families and elderly persons living in subsidized units, and reduced the number of new low-income housing units being constructed or rehabilitated by more than half—actually spent more on these programs over the past two years than Carter would have.

How significant are Stockman's manipulations? A new Congressional Budget Office analysis shows that as a result of the last two years of budget reductions, fiscal 1983 expenditures for the low income benefits programs were cut $5.2 billion below what they would have been had no changes been made by Congress. Stockman's chart, however, showed a reduction of only $1.7 billion. In other words, Stockman made two-thirds of the Reagan cuts disappear.

The administration's reductions, of course, would have been far deeper had all of its proposed cuts in aid to the poor been enacted. Of $20 billion requested last year in further cuts in these programs for the 1983-1985 period, Congress agreed to less than $4 billion.

Among the reductions rejected outright were administration proposals that would have doubled rents over several years for some of the poorest families living in subsidized housing, ended or reduced food stamps for more than 90 percent of the elderly who receive them, and sliced 700,000 low-income pregnant women and children from a food supplement program that has been proved to reduce infant mortality.

So much for Stockman Claim 1.

Next, Claim 2: that large chunks of benefits have been going to persons far above the poverty line. Indeed, Stockman maintains that before Ronald Reagan came to the rescue, average workers were being taxed to bring welfare families up to virtually the same standard of living as themselves.

Specifically, he contends that in 1981, 42 percent of all benefits in these programs went to families over 150 percent of the poverty line, and that 150 percent of the poverty line for a family of four that year was $13,390—or 92 percent of the median annual income for employed workers.

The misuse of statistics is particularly striking here. First, Stockman has compared 150 percent of the poverty line for a family of four ($13,390) to the median income for an individual worker. Sorry, but you can't do that. The real numbers go like so. The median income for a family of four in 1981 exceeded $26,000—not $13,390—and 150 percent of the poverty line is about half—not 92 percent—of the median income for a comparably sized family.

Then Stockman counted as part of the income of program beneficiaries the value of health insurance coverage provided by Medicaid and the benefits from living in subsidized housing—but he did not include in his median income figures for workers either the comparable fringe benefits for employer-paid health insurance or the tax subsidies for mortgage and medical payments that many middle-income families receive. This makes for a neat comparison of apples and oranges.

When you do these comparisons properly, you find that the income and benefits of those participating in the federal programs were far below the living standards of average American families—even before the Reagan budget cuts took effect.

Nor is Stockman's claim valid that 42 percent of low-income benefits went to families over 150 percent of the poverty line. While these figures are derived from Census data, Stockman misuses the evidence in ways that the Census Bureau itself warns against.

Drawing on the Census Bureau's work, Thomas C. Joe, a former Nixon administration welfare expert who now directs the Center for the Study of Social Policy, has prepared a devastating critique that shreds Stockman's claims on this issue.

A number of Stockman's "high-income" families were actually unemployed and receiving federal benefits for just a few months in 1981. Once back to work, they stopped receiving aid. But Stockman's figures reflect families' incomes for all of 1981 (rather than just for the months they actually received benefits), which enables Stockman to count many of these families as "high income" beneficiaries. The Census Bureau explicitly warns about this problem in the data, but Stockman ignored the admonition.

Similarly, the Stockman data distort income patterns when the composition of a household changes. The data attribute to households the income earned during the entire year by persons who were household members for only a small part of the year. Yet the absence of households members for part of the year (especially deserting fathers) may be the very reason that the remaining family members needed aid. The Census Bureau warns about this, too, stating that the data "may not always reflect the true economic status of the household during the year."

In short, the numbers Stockman uses have a major impact in exaggerating the number of high-income households receiving aid. When those distortions are removed, the picture is quite different. For example, Agriculture Department evidence that is free from these distortions shows that no more then three tenths of 1 percent of food stamp benefits in 1981 went to families whose cash income exceeded 150 percent of the poverty limit for the months they received food stamps.

While these manipulations are disturbing, Stockman's numbers juggling reaches its zenith in his description of administration tax policies.

The wealthy, according to Stockman, received all of their tax cut when the top tax rate was lowered from 70 percent to 50 percent. Since this change constituted less than 1 percent of the tax benefits from the 1981 tax act, Stockman tells us, the wealthy ended up with less than 1 percent of the largesse and can hardly be described as the prime beneficiaries.

These startling conclusions contrast sharply with the findings of virtually every independent study of the 1981 tax act. The Joint Congressional Committee on Taxation, for example, found that the wealthiest 5 percent of taxpayers would gain 35 percent of the benefits from the tax act. Congressional Budget Office studies have shown that in fiscal 1982 through 1985, the tax and budget changes enacted under the Reagan administration will take more than $20 billion in benefits away from households with incomes below $10,000 a year—while increasing the after-tax incomes of those making more than $80,000 a year by $64 billion.

How did Stockman get such different results?

First, his claim that lowering the top rate represented all of the tax cuts for the wealthy is nonsense. He simply ignores the plethora of new loopholes and expanded tax breaks incorporated into the 1981 act, such as the changes in estate taxes, IRA's and Keogh's, the All Savers Certificate and dividend reinvestment.

Second, Stockman carefully limited his definition of the wealthy (without informing his audience) to the top two-tenths of 1 percent of all taxpayers, those with incomes of more than $200,000 a year. This suited his purposes admirably: With so few taxpay-

ers defined as wealthy, their aggregate tax benefits would not look so large. The sizable tax benefits going to the much larger number of taxpayers in the $50,000-$200,000 range were simply excluded from his calculations.

Moreover, Stockman omitted the fact that the elite group he did define as wealthy received, on average, a whopping $22,000 apiece just from the changes in tax rates—before even counting the new tax shelter opportunities. Ronald Reagan himself saved $90,000 on his taxes last year because of the 1981 act. His after-tax income went up almost as much as if his salary had doubled.

The final part of Stockman's tax presentation was an attempt to discredit independent studies showing that those with high incomes received very large tax breaks. The problem with the studies, Stockman declared, was that for the wealthy, tax gains or losses stem less from rate changes (which the studies focused on) than from changes in the extent to which income is diverted into tax-free investments (which most of the studies did not treat).

Stockman's implication was that by reducing the top rates, tax shelters were being made less attractive—and that declining use of shelters would reduce the gains for the wealthy below the levels cited in the studies.

While lowering the top rate may, by itself, reduce the use of shelters, Stockman again failed to disclose all of the facts: The 1981 act created so many new shelter opportunities that use of shelters has exploded despite the reduction in the top rate.

Use of syndicated shelters grew 12.5 percent in 1982, far more than the rate of inflation. Moreover, preliminary data indicate that for first quarter of this year, syndicated tax shelter use is up 50 percent from the comparable period last year. The burgeoning use of shelters, which confer the preponderance of their benefits on the affluent, suggests that tax benefits for the wealthy from the 1981 act are likely to be larger—not smaller—than previous studies and analyses have indicated.

Finally, there is the question of purchasing power. A favorite—Stockman (and White House) theme is that the average American's purchasing power has increased sharply during the Reagan presidency because inflation has come down so much. Purchasing power, however, is not determined solely by prices—but by the interaction of prices and wages.

What the administration has failed to say is that wages have come down about as much as prices, leaving the average American with virtually no gain in real purchasing power.

What is widely regarded as the best measure of purchasing power—the Commerce Department's index of real per capita personal disposable income—shows that purchasing power under Reagan has increased at an annual rate of only four-tenths of 1 percent. This is well below the average rate of increase under every other president for the past 30 years.

The growth in purchasing power that did take place in the Reagan years occurred primarily from January 1981 until August 1981—before the Reagan economic program took effect. Since August 1981, when the Reagan tax and budget program was enacted, real per capita personal disposal income has declined. The average American's standard of living has fallen since the Reagan administration's program was enacted.

Stockman's manipulation of the numbers makes rational debate on these spending issues more difficult. But perhaps most significant is the new dimension that Stockman has added to the much-discussed "fairness" issue.

For what can raise more basic questions about whether this administration is fair than when one of its principal officials—with access to data, staff and resources that few others in this town possess—utilizes this power to rig the terms of the debate and misrepresent the nature of his administration's policies.●

CHANNEL 2 EXPLORES THE WORK EXPERIENCE: "PROJECT WORKING"

● Mr. MOYNIHAN. Mr. President, I simply wish to note that New York State's distinguished Governor Mario M. Cuomo declared the month of June "Project Working Month" in recognition of WCBS-TV's magnificent broadcast "Project Working." And may I add that this program which aired from June 6, 1983 through June 25, 1983, is the third annual broadcast in WCBS-TV's campaign to educate and inform television audiences on tremendously important issues.

This year, WCBS-TV and the program's sponsor, the Bowery Savings Bank of New York, designed a program to explore one of our Nation's most immediate crises, unemployment, and one of our most urgent needs, putting people back to work. Topics such as high technology, retraining and vocational education, and women in the work force were examined during an hour-long broadcast, public service announcements and public affairs broadcasts, a series of editorials and special reports.

I wish to congratulate the entire WCBS-TV crew and Peter A. Lund, general manager and vice president of WCBS-TV along with Ellis T. Gravette, Jr., chairman of the board, the Bowery Savings Bank for their highly creative success "Project Working."

I share WCBS-TV's intense concern for the future of the American worker. I encourage all those who did not have the opportunity to witness this highly informative program to write to WCBS-TV for its handbook growing out of the series, "Project Working," and I ask that a WCBS-TV news release describing the program be printed in the RECORD:

The material follows:

[News Release]

CHANNEL 2'S "PROJECT WORKING," COMPREHENSIVE 3-WEEK LOOK AT ALL ASPECTS OF THE WORK EXPERIENCE, TO BEGIN MONDAY, JUNE 6

PRIME-TIME SPECIAL HOSTED BY JIM JENSEN KICKS OFF ANNUAL STATION EFFORT

NEW YORK, May 17.—Working is an important part of all our lives, and beginning Monday, June 6, WCBS-TV turns to the vital issue of employment in its three-week Project Working, the latest in a series of topical campaigns geared to informing the tri-state area about vital community issues.

"We're pleased to offer Project Working to our viewers," says Peter Lund, vice-president and general manager, WCBS-TV. "Working—and not working—are certainly on everyone's mind these days, and we felt that our seventh annual station project ought to be devoted to this timely topic."

Project Working—a collaborative effort of the broadcasting, news, and editorial departments (sponsored by The Bowery Savings Bank) will be launched with a special one-hour prime-time special, Project Working: More Than Something To Do, a look at the varied aspects of the working experience, hosted by Channel 2 anchorman Jim Jensen, and airing Monday, June 6 from 10-11 p.m. (and repeated Saturday, June 25 from 7-8 p.m., the last day of Project Working).

This special, put together by the same creative team as last year's Emmy Award-winning Project Aging prime-time special, No Experience Necessary, will explore the reasons people work, the experience of being unemployed, profiles of those people who have gone from "rags to riches," the many people whose earnings are "off the books," a forecast of the workplace of the future, and a look at those creative professions that can never be replaced by automation.

For younger viewers, Chips 'N' Bits, a follow-up to last year's children's special which garnered two Emmy Awards, will explore the new computer technology which children already seem better able to grasp than many adults. Hosted by Lloyd Kramer (co-host of 2 On the Town), the 30-minute program explores how children are now transferring their knowledge of video games to more sophisticated applications. Chips 'N' Bits will air Thursday, June 23 from 7:30-8 p.m.

The regularly scheduled program Channel 2 the People will present two programs on the subjects of volunteerism and unemployment respectively. Hosted by Fred Noriega and Marie Torre, "Unemployment" will explore the toll exacted by today's high unemployment with case studies of people out of work. "Unemployment will air Saturday, June 11 from 6-6:30 p.m. "Volunteerism" will profile those people who provide invaluable service to their communities by working as volunteers, and will air Saturday, June 18 from 6-6:30 p.m.

Similarly, Channel 2's early morning Daybreak program, hosted by Fred Noriega and Marie Torre, will offer 10 programs for Project Working. The programs, to air the weeks of June 6 and 13 (Monday-Friday, 6-6:30 a.m.), will explore such topics as "Jobs of the Future" (with guest renowned author Alvin Toffler) (6/6), "How To Find a Job" (6/7), "Entrepreneurs" (with guest Sir Freddy Laker) (6/8), "Women in the Workforce" (6/9), "Handling Job Stress" (6/10), "Cooperative Education" (6/13), Skitch Henderson (entrepreneur) (6/14), "Policewomen" (6/15), "Vista" (Volunteers) (6/16), and "Long Island Homemaker of the Year" (6/17).

In addition to these full-length programs, there will be a series of Working Moments (30 second program spots) airing throughout the three-week period to reinforce Project Working. All illustrating the theme that "work is more than something to do," the spots will feature high profile figures on various topics ranging from productivity and volunteerism to creativity and job stress. The personalities will include Mayor Edward Koch, actress Nancy Marchand, writer Alvin Toffler, comedian David Bren-

ner, and the "world's fastest talker" John Mishita.

And as part of its on-going exploration of working, Channel 2 News will present a number of special reports on the subject, drawing on its many resources. The Editorial Department will present a series of commentaries on the subject during the three-week period of Project Working.

The WCBS-TV Station Services Department has produced the latest in a series of free guides for a Channel 2 project, this one entitled "Project Working: The WCBS-TV Handbook To Help You Find The Job You Want," published in conjunction with The Bowery Savings Bank. The booklet, which will be available at branches of The Bowery to the general public, will include sections on deciding on a career, finding a job, getting noticed, and the interview process; it will include numerous phone numbers and addresses, particularly in the section "New Jobs For the Future."

This is the fourth year that The Bowery has agreed to sponsor the entire station project. Its association with Channel 2 began back in 1979 with Project Parenting and continued with The First Amendment Project (1981) and last year's Project Aging. This year The Bowery will present a series of free seminars on the subject of working to coincide with Project Working.

Project Working is the latest in a series of award-winning Channel 2 station projects that began back in 1978 with We The Victims, a study of urban crime. Subsequent programs have included Project Parenting (1979), Project Family (1980), Project Education (1981), The First Amendment Project (1981), and Project Aging (1982).

Among the recent awards for the "Project" series, Project Aging was honored with three Emmy Awards, and The First Amendment Project with a number of awards including the Alfred I. DuPont-Columbia University Broadcast Journalism Award, a Sigma Delta Chi First Amendment Award from the Board of Directors of the Society of Professional Journalists (SDX), an Ohio State Award, a gold medal from the International Film & Television Festival of New York, and a Silver Plaque Award from the 17th Chicago International Film Festival.

Project Working is a production of WCBS-TV, Channel 2.●

BEVERLY J. LAMBERT

● Mr. PRYOR. Mr. President, a very good friend of mine and a good friend of Arkansas, Beverly J. Lambert, recently completed his term as bank commissioner of the State. At the time he stepped down, the Arkansas Bankers Association adopted a resolution in his honor. It goes a long way toward describing the character and contribution of a fine public servant, and I ask that this resolution be printed in the RECORD.

The resolution follows:

BEVERLY J. LAMBERT

Whereas, Beverly J. Lambert recently completed his term as Bank Commissioner for the state of Arkansas, having served with great distinction; and,

Whereas, he has spent his adult life in active leadership in banking in the state of Arkansas, also with great distinction; and,

Whereas, he has served as chief executive officer of banks in Holly Grove, West Memphis and Crossett and as a community leader, in addition to his service as Bank Commissioner; and,

Whereas, Mr. Lambert served with great distinction also as president of the Arkansas Bankers Association during his career and has devoted his life to the banking profession; Now, therefore, be it

Resolved, that we the bankers of Arkansas in convention assembled express our sincere appreciation to Beverly Lambert for his many years of dedicated service to the profession for the benefit of all banks and bankers and for his active advocacy of the banking profession during his tenure as Bank Commissioner for the state of Arkansas.●

REGULATORY REFORM ACT—S. 1080

● Mr. ABDNOR. Mr. President, Members of the Senate, I am pleased to cosponsor S. 1080, the Regulatory Reform Act, again this year.

S. 1080 was introduced in 1981 as a bipartisan effort to reform the regulatory process. It was passed by the Senate in March 1982 by a 94-to-0 vote. The bill was intended as a first step toward checking the uncontrolled growth of regulatory power in Government. It expands public access to the regulation-making process, and provides for a more sensible judicial review.

I endorse this measure because it does the following things: It requires agencies to review all major rules every 10 years to determine if they should be revised or withdrawn, and requires agencies to review, on a nonmathematical basis, the tradeoffs of major rules and to determine that such rules are cost effective. It also allows the President to oversee this procedure.

The Regulatory Reform Act prohibits the courts from presuming that agency interpretations of law are valid and require agency factual determinations in rulemaking to have substantial support. It allows for oral presentations in major rulemaking, including cross-examination where needed to resolve factual issues.

The race-to-the-courthouse problem in review of agency action is addressed by assigning a case randomly where review proceedings have been instituted in different courts within 10 days of each other.

Finally, the bill prohibits use of appropriated funds to pay the expenses of persons participating or intervening in agency proceedings except where expressly authorized by statute.

S. 1080 is necessary because it provides for the elimination of burdensome Federal rules and regulations, and the complicated, time-consuming redtape that hinders the small businessman. A small-town feed company is presently required to fill out nine separate forms to file with nine separate agencies and departments. (Departments of Agriculture, Commerce, Labor, Transportation, the FTC, IRS, EEOC, OSHA, and the FDA).

These duplicative and overlapping regulations impose a cost on the small businessman which raises prices without a corresponding rise in productivity. The effects of this overregulation include an increase in the rate of inflation, a decrease in productivity, and less innovation in private business.

S. 1080 achieves the goal of retaining the benefits of Federal regulations, while reducing the burdens those regulations have imposed on the American public. These burdens need to be eliminated and a measure of rationality returned to the Federal regulation process.

A survey done by the Congressional Research Service indicated that 75 percent of the population feel that: Federal regulations are complicated, confusing, and not fair to those who are affected by them; are not justified in terms of the costs involved in their development and enforcement; and that the end result of these regulations is an increase in product costs.

The American people are tired of Federal regulations which complicate their lives by interfering with the manner in which they conduct their business affairs.

It is time we listen to the people, and institute the reforms requested by those who are directly affected by them—the businessmen who must deal with the bureaucratic redtape, and the consumers who in the end must pay the increased costs that are a direct result of the expense involved in complying with these regulations.

I urge prompt Senate action on this bill. This body has been through much of the debate on this measure, and there is no need to waste valuable time going over it again. We need to pass S. 1080 and send it to the House so that it may have ample time to consider the Regulatory Reform Act, and hopefully take action on the issues.●

COMMISSION ON AN ALTERNATIVE TO THE LEGISLATIVE VETO ACT

● Mr. MOYNIHAN. Mr. President, I have introduced legislation designed to create a Commission on an Alternative to the Legislative Veto Act. The recent decision by the Supreme Court in Chada against Immigration and Naturalization Service has led to both confusion and a sense of urgency in both the Senate and the House. Many are concerned over the potential change in the system of checks and balances that may result.

S. 1591 is designed to alleviate that concern by clearing away the confusion that has followed in the wake of the Court's decision. This legislation will create a committee to study the full consequences of Chada and sug-

gest procedures under which the Congress may continue to exercise adequate oversight of action by the executive branch.

This legislation is by no means an attempt to subvert either the authority of the Court or the separation of powers as set down in the Constitution. Instead, it is designed to help Congress act within the parameters the Constitution sets and the Court recently defined.

Mr. President, I ask that the full text of the bill and related news items be printed in the RECORD.

The material follows:

S. 1591

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Commission on an Alternative to the Legislative Veto Act".

DECLARATION OF POLICY

SEC. 2. It is the policy of Congress, in response to the decision of the United States Supreme Court in Chada versus Immigration and Naturalization Service declaring the traditional legislative veto procedure to be unconstitutional, to develop procedures under which the Congress may exercise adequate oversight of action by the executive branch of the Federal Government in a modern administrative state.

ESTABLISHMENT OF COMMISSION

SEC. 3. (a) for the purpose of carrying out the policy set forth in section 2, there is established a commission to be known as the Commission on an Alternative to the Legislative Veto (hereafter in this Act referred to as the "Commission").

(b) The Commission shall be composed of twelve members as follows:

(1) Four appointed by the President of the United States, two from the executive branch of the Government and two from private life.

(2) Four appointed by the President pro tempore of the Senate, two upon recommendation of the Majority Leader of the Senate, one from the Senate and one from private life, and two upon recommendation of the Minority Leader of the Senate, one from the Senate and one from private life.

(3) Four appointed by the Speaker of the House of Representatives, two from the House of Representatives and two from private life.

(c) Of each class of two members specified in subsection (b), not more than one member shall be from the same political party. The members of the Commission appointed from private life shall be individuals who are of recognized standing and distinction and who possess the demonstrated capacities to discharge the duties imposed on the Commission, including individuals who have previously served in both the legislative and executive branches of the Federal Government.

(d) Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(e) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(f) Seven members of the Commission shall constitute a quorum for the transaction of business, but the Commission may establish a lesser number as a quorum for the purpose of holding hearings, taking testimony, and receiving evidence.

FUNCTIONS

SEC. 4. In carrying out the policy set forth in section 2, the Commission shall consider and study—

(1) the impact of the Supreme Court decision in Chada versus Immigration and Naturalization Service declaring legislative vetos to be unconstitutional on existing legislation containing such veto provisions.

(2) the impact of such decision on congressional oversight of the exercise by the executive branch of broad discretionary powers delegated by the Congress, and

(3) possible alternatives to the legislative veto procedure, including amendments to the United States Constitution, necessary for the Congress to adequately oversee the exercise of delegated powers by the executive branch.

ADMINISTRATIVE PROVISIONS

SEC. 5. (a) Subject to such rules and regulations as may be adopted by the Commission, the Chairman shall have the power to—

(1) appoint, terminate, and fix the compensation without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5 of the United States Code, or of any other provision of law, relating to the number, classification, and General Schedule rates—

(A) of such personnel as it deems advisable to assist in the performance of its duties, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(B) an Executive Director for the Commission contingent upon confirmation by the Commission members at an annual rate of compensation not to exceed a rate equal to the rate provided for level V of the Executive Schedule under section 5316 of title 5, United States Code; and

(2) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule.

(b) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with our without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or of such advisory council or committee, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisons of Federal law.

(c) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

COMPENSATION OF MEMBERS

SEC. 6. (a) The members of the Commission who are Members of Congress or who are in the executive branch of the Government shall serve on the Commission without additional compensation. The members of the Commission from the private sector shall each be paid at a rate equal to the daily rate of pay for level IV of the Executive Schedule for each day such member is engaged in the actual performance of duties as a member of the Commission.

(b) All members of the Commission shall be reimbursed for travel as authorized by section 5703 of title 5, of the United States Code, subsistence, and other necessary expenses incurred in the performance of the duties of the Commission.

POWERS OF THE COMMISSION

SEC. 7. (a)(1) The Commission or, on the authorization of the Commission, any subcommittee thereof or any member authorized by the Commission may, for the purpose of carrying out this Act, hold such hearings and sit and act at such times and places, take such testimony, have such printing and binding done, enter into such contracts and other arrangements (with or without consideration or bond, to such extent or in such amounts as are provided in appropriation Acts, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5)), make such expenditures, and take such other actions as the Commission or such member may deem advisable. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission or before such member.

(2) The provisions of the Federal Advisory Committee Act shall not apply to the Commission established under this Act.

(b) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Government such information, suggestions, estimates, and statistics as the Commission may require for the purpose of this Act, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman or Vice Chairman.

(c) Upon request of the Commission, the head of any Federal agency is authorized to make any of the facilities and services of such agency available to the Commission or to detail any of the personnel of such agency to the Commission, on a reimbursable basis, to assist the Commission in carrying out its duties under this Act, unless the head of such agency determines that urgent, overriding reasons will not permit the agency to make such facilities, services, or personnel available to the Commission and so notifies the Chairman in writing.

(d) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) No officer or agency of the United States shall require the Commission to submit any report, recommendation, or other matter to any such officer or agency for approval, comment, or review before submitting such report, recommendation, or other matter to the Congress.

REPORTS AND TERMINATION OF THE COMMISSION

SEC. 8. (a) The Commission shall prepare and submit to the Congress such interim reports as the Commission deems to be appropriate and a final report not later than one year after the first meeting of the Commission.

(b) Ninety days after the submission to the Congress of its final report the Commission shall cease to exist.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

[From the New York Times, June 24, 1983]

SUPREME COURT, 7-2, RESTRICTS CONGRESS RIGHT TO OVERRULE ACTIONS BY EXECUTIVE BRANCH

(By Linda Greenhouse)

WASHINGTON, June 23.—The Supreme Court today swept aside a 50-year-old practice used by Congress to delegate authority to the President and then block his action under the law when it disagreed.

The Court, by a historic 7-to-2 vote, struck down this so-called legislative veto, saying that it violated constitutional requirements preserving the separation of powers.

Legislative veto provisions, which spell out and often restrict the President's authority under the law, have been written into about 200 statutes.

The ruling may profoundly alter the balance of power between the White House and Congress. It presumably strips Congress, for example, of the unilateral power it gained under the War Powers Resolution of 1973 to require the President to withdraw American troops from foreign hostilities.

FROM HOOVER PRESIDENCY

The legislative veto procedure dates to 1932, when Congress added it to an appropriation bill to give President Hoover authority to reorganize the Government.

Under a legislative veto, either or both houses by a simple majority can block specific actions that the President or a Federal agency takes to carry out authority that Congress has delegated.

As a result of today's ruling, Congress will be able to disapprove executive branch action only if a bill to that effect passes both Houses and receives the President's signature. If the President vetoes the legislation, Congress may block the President's action only by overriding his veto by a two-thirds vote.

The initial Congressional reaction was that the ruling would create "conflict and chaos" on Capitol Hill. There were differing views today as to whether it would give the President or Congress the upper hand over the long run.

IMMIGRATION CASE BEFORE COURT

Some said the decision would give Presidents more power in certain key areas. Others argued that the ruling would make Congress more reluctant than ever to grant certain powers to the President in the first place.

The decision, written by Chief Justice Warren E. Burger, came in a relatively minor immigration case, one of several legislative veto cases before the Court. The Justices had wrestled with the case for nearly two years, hearing argument in February 1982 and again last October.

The legislative veto has been a subject of debate for years among politicians, political scientists and legal scholars, many of whom awaited the Court's decision today with intense interest. While the breadth of the ruling was something of a surprise, the particular result, which upheld a 1980 ruling by the United States Court of Appeals for the Ninth Circuit in California, was not.

The Court ruled that the House of Representatives exceeded its constitutional powers when, exercising a legislative veto provision in the Immigration and Nationality Act, it blocked the Attorney General's decision to suspend deportation for a Kenyan student who had overstayed his visa.

A LEGISLATIVE ACT

Chief Justice Burger said that the action by the House was, in effect, legislation. The Constitution, he said, permits the enactment of legislation only "in accord with a single, finely wrought and exhaustively considered procedure," namely, "passage by a majority of both houses and presentment to the President" for his signature or veto.

That procedure, the Chief Justice said, can be "clumsy" and "inefficient." But, he continued, "with all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution."

The Court's theory encompasses all varieties of legislative vetoes, those requiring action by both houses as well as the one-house immigration veto. it will take further litigation, however, to establish on a case-by-case basis which of the approximately 200 laws with legislative veto provisions are now unconstitutional in their entirety and which, like the immigration law, may be viewed as "severable" from the unconstitutional veto provision.

ATTORNEY GENERAL GRATIFIED

Attorney General William French Smith said he was "gratified" by the decision and praised the Court for having "reaffirmed in a strong and compelling opinion the vital and important role under our Constitution of the principle of separation of powers."

The Justice Department had joined the Kenyan student, Jagdish Rai Chadha, in challenging the constitutionality of the immigration veto. Mr. Chadha's case was brought by Public Citizen, a nonprofit organization loosely affiliated with Ralph Nader.

Alan B. Morrison, Public Citizen's director of litigation, said the outcome was a victory for consumers and that "special interest lobbies will no longer be able to gut laws protecting consumers, workers and the environment" by pressing Congress to veto administrative regulations.

Last year, in another Public Citizen lawsuit, the Federal appeals court here struck down a two-house veto that prevented the Federal Trade Commission from requiring used-car dealers to disclose major defects to their customers. The Senate and House appealed that ruling to the Supreme Court, which presumably will now affirm it.

Five members of the Court joined the Chief Justice's broadly worded opinion today. The seventh member of the majority, Associate Justice Lewis F. Powell Jr., said he would have preferred to decide the case on the narrower ground that the House of Representatives had usurped a judicial function in overruling an immigration decision.

Observing that the majority's approach "apparently will invalidate every use of the legislative veto," Justice Powell said: "The breadth of this holding gives one pause."

In a dissenting opinion, Associate Justice Byron R. White said that the legislative veto was an essential part of "the modern administrative state" that "has become a central means by which Congress secures the accountability of executive and independent agencies."

He said that "the wisdom of the Framers was to anticipate that the nation would grow and new problems of governance would require different solutions," one of which was the legislative veto.

Justice White was the only member of the Court to dissent on the merits. Associate Justice William H. Rehnquist dissented without addressing the broader constitutional issue, saying only that Congress would never have given the Attorney General the right to suspend deportations if it could not have kept for itself the power to veto individual suspensions.

The Associate Justices who joined the majority opinion were William J. Brennan Jr., Thurgood Marshall, Harry A. Blackmun, John Paul Stevens, and Sandra Day O'Connor.

RARE MOMENTS OF DRAMA

The announcement of the decision, a few minutes after 10 o'clock this morning, produced some rare moments of drama in the courtroom.

Chief Justice Burger's practice is to simply announce the result in cases in which he has written the opinion, unlike the other eight Justices, who briefly explain their decisions and the rationale for the benefit of the courtroom audience.

As usual, the Chief Justice announced this morning only that in the case of Immigration and Naturalization Service v. Chadha, the Court had affirmed the judgment of the United States Court of Appeals for the Ninth Circuit. He then said that Justice White would read a dissenting opinion.

Oral dissents from the bench are rare, and Justice White said it had been many years since he had read one aloud. "But this is probably the most important case the Court has handled down in many years," he said, calling the decision a "destructive action" that was "clearly wrong and unnecessarily broad."

There was a moment of silence when he finished, and it appeared that the morning's proceedings were over. But then Chief Justice Burger began to talk, apparently without notes. "We all agree on one thing," he said, "that this is a very difficult and important case."

He talked about the framers of the Constitution—the "draftsmen in Philadelphia," he called them—and said that "the Constitution is a document designed to assign and delegate and separate the powers of government, and to limit them." If the Framers had wanted to establish a legislative veto, he said, "they knew very well how to do it."

The courtroom was half empty, and it was unlikely that many of the tourists present knew what an unusual event they had happened upon. The majority opinion was grounded in the explicit constitutional text and on what Chief Justice Burger called "the profound conviction of the Framers that the powers conferred on Congress were the powers to be most carefully circumscribed."

IMPACT OF THE DECISION: POLITICAL AND LEGAL EXPERTS PREDICT CHANGES IN RELATIONSHIP BETWEEN THE TWO BRANCHES

(By Steven R. Weisman)

WASHINGTON, June 23.—In its decision today the Supreme Court dramatically altered the relationship between Congress and the executive branch and created myriad new difficulties in their struggles to accommodate each other.

Legal and political experts predicted that the decision would lead to renewed jockeying over prerogatives and a search for new mechanisms allowing Congress to oversee executive decisions even as it grants the President power to spend money, wage war or take other actions.

The courts, in turn, are likely to be asked immediately whether certain executive powers are still valid. These powers were often declared by Presidents to be inherent in the office in the absence of legislation from Congress. In response, Congress would specifically grant the authority, reserving the right to block certain Presidential actions.

For example, does the President have the right to refuse to spend funds appropriated by Congress, now that the High Court has removed Congress's right to overturn such a move? May a President keep American troops committed to hostilities or sell arms overseas now that Congress may no longer veto such actions?

It is virtually certain that these and other questions affecting 200 statutes with legislative vetoes will be determined ultimately by Congress and the President themselves. As they address the matter, two competing historical forces will be at work.

First is the trend of the last 50 years of Presidents seeking from the Congress greater and greater power to regulate industry and commerce, to act swiftly in foreign policy, and to reorganize and run an increasingly complex Federal Government.

The second trend is the one mounted by both liberals and conservatives in the past 15 years aimed at curbing the President's power.

Liberals, alarmed by Vietnam and Watergate, have led the fight to limit a President's ability to commit troops overseas, aid certain countries militarily and freeze funds already appropriated by Congress, as President Nixon did in the impoundment controversy of a decade ago.

More recently, conservatives have sought to limit the ability of the Federal Trade Commission, the Food and Drug Administration and other semi-independent Federal agencies to impose certain regulations on business.

Indeed, there was a certain irony in today's court decision for President Reagan. In the 1980 election campaign, Mr. Reagan favored the concept of legislative veto to curb the power of Federal agencies. As President, he shifted position and joined the trend of all modern Presidents in opposing the concept.

There were conflicting views today among the experts as to whether the Supreme Court decision would give the President or the Congress the upper hand.

Some argued that the decision will almost certainly give Mr. Reagan and all succeeding Presidents more power in certain key areas.

They noted that, although the Congress will still be able to stymie a President with legislation, a President may himself veto such legislation. A Presidential veto may be overridden only by a two-thirds vote of both the Senate and the House of Representatives.

On the other hand, experts in Congress argued that the Supreme Court decision will make the lawmakers more reluctant than ever to grant certain powers to the President in the first place.

"It's going to cripple the things that this President or any President will be able to do," said Representative Elliott H. Levitas, a Georgia Democrat who is a leading proponent of the legislative veto. Mr. Levitas added that Congress will have "no choice but to severely circumscribe any delelgation of authority" to the President.

NEW ACCOMMODATIONS SEEN

Still others argued today that the court decision would mean cumbersome new attempts to reach a series of new political accommodations between the President and Congress, and that these new accommodations would not be very different from the ones that exist now. Such a view was voiced by Lloyd Cutler, a White House counsel to President Carter.

"In the short run, the main effect is going to uphold executive authority in the foreign affairs field," Mr. Cutler said. "But in time Congress will find other ways to block Presidential action. It may not be such a cosmic change after all."

Even in arguing for rejection of the legislative veto, Reagan Administration officials noted that Congress has many means at its disposal to frustrate a President. Some of these were listed by Theodore B. Olson, Assistant Attorney General and head of the Office of Legal Counsel in late 1981.

Among those cited by Mr. Olson were the ability of Congress to place "specific and precise limits" on agencies that issue rules, override such rules with legislation or authorize a Federal agency to act for a limited period of time, "forcing the agency to return to Congress" for new authorization.

In addition, there was a mechanism worked out in several instances between President Carter in Congress containing a "delay and report" clause in granting Presidential authority.

Under this clause, Congress could require that any President wanting to take a certain action unilaterally, such as impounding funds or selling arms overseas, would have to wait for a period of 45 days. In this period, the Congress would be able to approve legislation or even pass a nonbinding resolution of approval or disapproval.

MORE DIRECT ROLE FORESEEN

"Even if it was a nonbinding resolution, as a practical matter the President or an agency would probably not go ahead," Mr. Cutler said. "After all, ultimately, if you keep on defying Congress, they'll get even with you."

Mr. Cutler added, however, that he was pleased with the High Court's action today. Like others, he noted that it will likely force Congress into a more direct role on many matters.

The legislative veto has, for example, given the Congress the right to block executive actions without the obligation to say itself what should be done. In the future, Congress may well find itself having to say with much more specificity what it would allow under certain legislation.

For example, instead of passing a Clean Air Act, then reserving the right to veto specific regulations imposed by the Environmental Protection Agency, Congress may have to step into the business of deciding in advance what regulations are appropriate.

SHARP SHIFTS IN CONGRESS PRACTICES AND LEGISLATIVE CONFLICT PREDICTED

WASHINGTON, June 23.—Congressional supporters and opponents of the legislative veto agreed today that the Supreme Court decision would create conflict on Capitol Hill and significantly alter the way Congress conducts its business.

They predicted that in place of the legislative veto, which was struck down today by the Supreme Court, Congress would pass tighter restrictions on Presidential authority and rely more heavily on the power of the purse and overseeing authority.

"This decision is going to create a lot of conflict and chaos," said Senator Carl Levin, Democrat of Michigan.

"We're either going to tie the President's hands too much, and require the President to come to Congress for everything, or we're going to give him too much power," the Senator said. "We're going to be losing the subtlety of a flexible mechanism."

Several chairmen of Congressional committees said they would hold hearings to evaluate the Supreme Court decision. The decision is also expected to spawn Congressional proposals to let Congress to retain some formal veto authority within the restrictions of the decision.

Some liberal House members said they would introduce legislation that would require a joint resolution of approval of arms sales above a certain amount now that Congress has lost its right to disapprove such sales through a legislative veto. Such a resolution would be subject to a Presidential veto.

Similarly, some conservative House members have called for new legislation to deal with what they consider "regulatory abuses," now that Congress can no longer veto regulations.

Representative Elliot H. Levitas, Democrat of Georgia, the chief Congressionl Champion of the legislative veto, envisioned "a significant reduction in powers to the executive branch and regulatory agencies."

"It's going to cripple the things that this President, or any President, will be able to do," he continued. "It's going to mean a much less flexible system of government."

And Senator Charles E. Grassley, Republican of Iowa, chairman of the Judiciary Committee's Administrative Practice and Procedure Subcommittee, said that "the President is the loser in this" because "it probably means that there's going to be very narrow writing of legislation in the future."

The House Republican leader, Robert H. Michel of Illinois, predicted that Congress would no longer "draft legislation so loosely that the Administration can go far afield."

Another foe of the legislative veto, Senator Wendell H. Ford, Democrat of Kentucky, said that "Congressional oversight must be given a higher priority by the various committees of both the House and Senate."

"If we do a proper job of oversight, it makes the whole question of legislative veto moot," he added.

CONTROL OF REGULATORY ABUSES

A proposal to require a joint resolution for approval of arms sales was drawn up today by Representative Stephen J. Solarz, Democrat of Brooklyn. "It's designed to assure that Congress doesn't lose control of arms sales," said Mr. Solarz, who predicted widespread support for his proposal among House members.

Similarly, Representative Andy Ireland, Democrat of Florida, called for renewed initiative on the part of Congress to control "regulatory abuses."

"The Federal bureaucracy is still out of control," Mr. Ireland said. "Congress created it, and it's up to us to control it, or eliminate parts of it, if necessary."

A proposal to circumvent the legislative veto was offered by Senators Levin and David L. Boren, Democrat of Oklahoma. Their plan calls for a delay in putting regulations into effect, to give Congress time to enact legislation to thwart those regulations it opposes.

[From the New York Times, June 24, 1983]

HOOVER WAS FIRST TO LET CONGRESS VETO PRESIDENT

(By Martin Tolchin)

WASHINGTON, June 23.—When President Hoover sought authority to reorganize the Federal Government in June 1932, he worked out a deal with a balky Congress. The lawmakers gave him the reorganization authority, with the proviso that either the House or the Senate could veto the resulting plan.

Thus began a restructuring of Presidential-Congressional relations that gained speed in recent years, especially in the aftermath of the Vietnam War and the Watergate scandal.

More than 200 laws containing more than 350 legislative veto provisions have been passed in the last half century—more than half of them in the last decade and about one-third in the last five years.

More than 60 of these laws are still on the books, including the War Powers Act of 1973, which authorizes Congress by a concurrent resolution to end the use of United States armed forces in hostilities. Also affected is legislation on arms sales to foreign governments, executive reorganization, energy policy, public works, nuclear energy regulation, petroleum allocation, immigration, education, transportation, community development, space administration, Indian affairs, watershed protection, Federal employee compensation levels and impoundment of appropriated funds.

In the last five years, Congress exercised its veto 31 times, usually on minor issues. Congress has never vetoed an arms sale, although some have narrowly escaped a legislative veto.

To some on Capitol Hill, such as Representative Robert H. Michel of Illinois, the House minority leader, the legislative veto is "kind of a cop-out" because it enables Congress to evade blame or responsibility for controversial bills.

But others regard the legislative veto as "a mechanism of accommodation," in the words of Senator Carl Levin, a Michigan Democrat. Their theory is that the legislative veto was a political strategem that enabled the President to extract more power than Congress wanted to cede. As a quid pro quo, or one thing in return for another, Congress gave itself the authority to veto what it considered to be Presidential excesses.

The immigration legislation that figured in today's Supreme Court decision provides a good example of why Congress chose to delegate authority to the executive branch, subject to a Congressional veto.

Prior to the legislation, Congress was besieged with private immigration bills admitting specific people to the United States, with frequent suggestions that some members of Congress were receiving payments for sponsoring the bills. Under the law, Congress delegated authority to the Attorney General to permit aliens to remain in the United States, subject to a veto by either the House or the Senate.

REAGAN NOW OPPOSES VETOES

Most Presidents have opposed legislative vetoes as unconstitutional except in cases in which they sought extraordinary authority from Congress. In 1979, Ronald Reagan wrote a newspaper column in which he supported the legislative veto as a way to make regulators "more sensitive to the mood of the people." He has reversed himself since becoming President, however, and now opposes the vetoes as an abuse of Congressional power.

Stuart E. Eizenstat, who served as President Carter's chief domestic adviser, bridged the gap between supporters and opponents of the legislative veto. He noted that Mr. Carter proposed such a veto in Government reorganization legislation that he sent to Congress in a successful effort to avoid the need for a majority vote approving the restructuring of government.

"It was very useful because it gave the President authority he wouldn't otherwise have," Mr. Eizenstat said.

In those cases in which a President sends up legislation with a Presidential veto, he added, it represents "a comity between the two branches of government." But in those in which it is imposed on the President, Mr. Eizenstat said, it is an unwarranted legislative interference with the executive branch.

BROAD AUTHORITY DELEGATED

The legislative veto also helped Congress to paper over divisions in its own ranks. Instead of drafting specific, unambiguous legislation that could not have been approved by Congress, the lawmakers often delegated broad authority to regulatory agencies with the proviso that it could veto the ensuring regulations.

Thus, Congress gave the Federal Trade Commission broad authority to regulate in the area of consumer protection. But the lawmakers then vetoed regulations dealing with the sale of used cars, while regulations concerning funerals and television commercials for children barely survived Congressional scrutiny.

EXCERPTS FROM SUPREME COURT DECISION ON LEGISLATIVE VETOES

(Special to the New York Times)

WASHINGTON, June 23.—Following are excerpts from the Supreme Court's decision today that the legislative veto is unconstitutional. Chief Justice Warren E. Burger wrote the majority opinion.

FROM MAJORITY OPINION

(By Chief Justice Burger)

We granted certiorari in Nos. 80-2170 and 80-2171, and postponed consideration of the question of jurisdiction in No. 80-1832. Each presents a challenge to the constitutionality of the provision in Sec. 242(c)(2) of the Immigration and Nationality Act, authorizing one House of Congress, by resolution, to invalidate the decision of the Executive Branch, pursuant to authority delegated by Congress to the Attorney General of the United States, to allow a particular deportable alien to remain in the United States.

Chadha is an East Indian who was born in Kenya and holds a British passport. He was lawfully admitted to the United States in 1966 on a nonimmigrant student visa. His visa expired on June 30, 1972.

On Oct. 11, 1973, the District Director of the Immigration and Naturalization Service ordered Chadha to show cause why he should not be deported for having "remained in the United States for a longer time than permitted." Pursuant to Sec. 242(b) of the Immigration and Nationality Act, a deportation hearing was held before an immigration judge on Jan. 11, 1974. Chadha conceded that he was deportable for overstaying his visa and the hearing was adjourned to enable him to file an application for suspension of deportation.

IMMIGRATION JUDGE ACTS

The immigration judge, on June 25, 1974, ordered that Chadha's deportation be suspended. The immigration judge found that Chadha met the requirements of Sec. 244(a)(1): he had resided continuously in the United States for over seven years, was of good moral character, and would suffer "extreme hardship" if deported.

Once the Attorney General's recommendation for suspension of Chadha's deportation was conveyed to Congress, Congress had the power under Sec. 244(c)(2) of the Act to veto the Attorney General's determination that Chadha should not be deported. Section 244(c)(2) provides:

"(2) In the case of an alien specified in paragraph (1) of subsection (a) of this subsection—if during the session of the Congress at which a case is reported, or prior to the close of the session of the Congress next following the session at which a case is reported, either the Senate or the House of Representatives passes a resolution stating in substance that it does not favor the suspension of such deportation, the Attorney General shall thereupon deport such alien or authorize the alien's voluntary departure at his own expense under the order of deportation in the manner provided by law. If, within the time above specified, neither the Senate nor the House of Representatives shall pass such a resolution, the Attorney General shall cancel deportation proceedings."

DECISION BY RESOLUTION

On Dec. 12, 1975, Representative Eilberg, Chairman of the Judiciary Subcommittee on Immigration, Citizenship, and International Law, introduced a resolution opposing "the granting of permanent residence in the United States to [six] aliens", including Chadha. The resolution was referred to the House Committee on the Judiciary.

On Dec. 16, 1975, the resolution was discharged from further consideration by the House Committee on the Judiciary and submitted to the House of Representatives for a vote. The resolution had not been printed and was not made available to other members of the House prior to or at the time it was voted on.

The resolution was passed without debate or recorded vote. Since the House action was pursuant to Sec. 244(c)(2), the resolution was not treated as an Article I legislative act; it was not submitted to the Senate or presented to the President for his action.

After the House veto of the Attorney General's decision to allow Chadha to remain in the United States, the immigration judge reopened the deportation proceedings to implement the House order deporting Chadha.

REVIEW OF CASE REQUESTED

Chadha filed a petition for review of the deportation order in the United States Court of Appeals for the Ninth Circuit. The Immigration and Naturalization Service

agreed with Chadha's position before the Court of Appeals and joined him in arguing that Sec. 244(c)(2) is unconstitutional.

After full briefing and oral argument, the Court of Appeals held that the House was without constitutional authority to order Chadha's deportation. The essence of its holding was that Sec. 244(c)(2) violates the constitutional doctrine of separation of powers.

We now affirm.

The contentions on standing and justiciability have been fully examined and we are satisfied the parties are properly before us, the important issues have been fully briefed and twice argued. The Court's duty in this case, as Chief Justice Marshall declared in *Cohens* v. *Virginia*, is clear:

"Questions may occur which we would gladly avoid; but we cannot avoid them. All we can do is, to exercise our best judgment, and conscientiously to perform our duty."

EFFICIENCY NOT SAVING

The fact that a given law or procedure is efficient, convenient, and useful in facilitating functions of government, standing alone, will not save it if it is contrary to the Constitution. Convenience and efficiency are not the primary objectives—or the hallmarks—of democratic government and our inquiry is sharpened rather than blunted by the fact that Congressional veto provisions are appearing with increasing frequency in statutes which delegate authority to executive and independent agencies:

"Since 1932, when the first veto provision was enacted into law, 295 congressional veto-type procedures have been inserted in 196 different statutes as follows: from 1932 to 1939, five statutes were affected; from 1940–49, 19 statutes; between 1950–59, 34 statutes; and from 1960–69, forty-nine. From the year 1970 through 1975, at least 163 such provisions were included in 89 laws." Abourezk, The Congressional Veto: A Contemporary Response to Executive Encroachment on Legislative Prerogatives.

Explicit and unambiguous provisions of the Constitution prescribe and define the respective functions of the Congress and of the Executive in the legislative process. Since the precise terms of those familiar provisions are critical to the resolution of this case, we sent them out verbatim. Art. I provides:

"All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate *and* a House of Representatives." (Emphasis added).

"*Every* Bill which shall have passed the House of Representatives and the Senate, *shall*, before it become a Law, be presented to the President of the United States; . . . " (Emphasis added).

"*Every* Order, Resolution, or Vote to which the Concurrence of the Senate and House of Representatives may be necessary (except on a question of Adjournment) *shall be* presented to the President of the United States; and before the Same shall take Effect, shall be approved by him, or being disapproved by him, *shall be* repassed by two thirds of the Senate and House of Representatives, according to the rules and Limitations prescribed in the Case of a Bill." (Emphasis added).

SEPARATION OF POWERS CONCERN

These provisions of Art. I are integral parts of the constitutional design for the separation of powers. We have recently noted that "the principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven in the documents that they drafted in Philadelphia in the summer of 1787." (*Buckley* v. *Valeo*). Just as we relied on the textual provision of Art. II, sec. 2, cl. 2, to vindicate the principle of separation of powers in Buckley, we find that the purposes underlying the Presentment Clauses, Art. I, Sec. 7, cls. 2,3, and the bicameral requirement of Art. I, Sec. 1 and Sec. 7, cl. 2, guide our resolution of the important question presented in this case. The very structure of the articles delegating and separating powers under Arts. I, II, and III exemplify the concept of separation of powers and we now turn to Art. I.

The Presentment Clauses

The records of the Constitutional Convention reveal that the requirement that all legislation be presented to the President before becoming law was uniformly accepted by the Framers. Presentment to the President and the Presidential veto were considered so imperative that the draftsmen took special pains to assure that these requirements could not be circumvented.

The decision to provide the President with a limited and qualified power to nullify proposed legislation by veto was based on the profound conviction of the Framers that the powers conferred on Congress were the powers to be most carefully circumscribed. It is beyond doubt that lawmaking was a power to be shared by both houses and the President.

The President's role in the lawmaking process also reflects the Framers' careful efforts to check whatever propensity a particular Congress might have to enact oppressive, improvident, or ill-considered measures. The President's veto role in the legislative process was described later during public debate on ratification:

"It establishes a salutary check upon the legislative body, calculated to guard the community against the effects of faction, precipitance, or of any impulse unfriendly to the public good which may happen to influence a majority of that body . . . The primary inducement to conferring the power in question upon the Executive is to enable him to defend himself; the secondary one is to increase the chances in favor of the community against the passing of bad laws through haste, inadvertence, or design." The Federalist No. 73, (A. Hamilton).

Bicameralism

The Bicameral requirement of Art. I, Secs. 1, 7 was of scarcely less concern to the Framers than was the Presidential veto and indeed the two concepts are interdependent. By providing that no law could take effect without the concurrency of the prescribed majority of the Members of both Houses, the Framers reemphasized their belief, already remarked upon in connection with the Presentment Clauses, that legislation should not be enacted unless it has been carefully and fully considered by the Nation's elected officials.

In the Constitutional Convention debates on the need for a bicameral legislature, James Wilson, later to become a Justice of this Court, commented:

"Depotism comes on mankind in different shapes. Sometimes in an Executive, sometimes in a military, one. Is there danger of a Legislative despotism? Theory & practice both proclaim it. If the Legislative authority be not restrained, there can be neither liberty nor stability; and it can only be restrained by dividing it within itself, into distinct and independent branches. In a single house there is no check, but the inadequate one, of the virtue & good sense of those who compose it."

ARGUMENT FROM HAMILTON

Hamilton argued that a Congress comprised of a single House was antithetical to the very purposes of the Constitution. Were the Nation to adopt a Constitution providing for only one legislative organ, he warned:

"We shall finally accumulate, in a single body, all the most important prerogatives of sovereignty, and thus entail upon our posterity one of the most exercrable forms of government that human infaturation ever contrived. Thus we should create in reality that very tyranny which the adversaries of the new Constitution either are, or affect to be, solicitous to avert." The Federalist No. 22.

This view was rooted in a general skepticism regarding the fallibility of human nature later commented on by Joseph Story:

"Public bodies, like private persons, are occasionally under the dominion of strong passions and excitements; impatient, irritable, and impetuous. . . . If [a legislature] feels no check but its own will, it rarely has the firmness to insist upon holding a question long enough under its own view, to see and mark it in all its bearings and relations to society."

We see therefore that the Framers were acutely conscious that the bicameral requirement and the Presentment Clauses would serve essential constitutional functions. The President's participation in the legislative process was to protect the Executive Branch from Congress and to protect the whole people from improvident laws.

The division of the Congress into two distinctive bodies assures that the legislative power would be exercised only after opportunity for full study and debate in separate settings. The President's unilateral veto power, in turn, was limited by the power of two-thirds of both House of Congress to overrule a veto thereby precluding final arbitrary action of one person.

It emerges clearly that the prescription for legislative action in Art. I, Secs. 1, 7 represents the Framers' decision that the legislative power of the Federal government be exercised in accord with a single, finely wrought and exhaustively considered, procedure.

THREE-WAY DIVISION OF POWER

The Constitution sought to divide the delegated powers of the new Federal Government into three defined categories, legislative, executive and judicial, to assure, as nearly as possible, that each branch of government would confine itself to its assigned responsibility. The hydraulic pressure inherent within each of the separate branches to exceed the outer limits of its power, even to accomplish desirable objectives, must be resisted.

Although not "hermetically" sealed from one another, the powers delegated to the three branches are functionally identifiable. When any branch acts, it is presumptively exercising the power the Constitution has delegated to it. When the executive acts, it presumptively acts in an executive or administrative capacity as defined in Art. II. And when, as here, one House of Congress purports to act, it is presumptively acting within its assigned sphere.

Beginning with this presumption, we must nevertheless establish that the challenged action under Sec. 244(c)(2) is of the kind to

which the procedural requirements of Art. I, Sec. 7 apply. Not every action taken by either House is subject to the bicameralism of presentment requirements of Art. I. Whether actions taken by either House are, in law and fact, an exercise of legislative power depends not on their form but upon whether they contain matter which is properly to be regarded as legislative in its character and effect.

LEGISLATIVE IN PURPOSE

Examination of the action taken here by one House pursuant to Sec. 244(c)(2) reveals that it was essentially legislative in purpose and effect. In purporting to exercise power defined in Art. I, Sec. 8, cl. 4 to "establish an uniform Rule of Naturalization," the House took action that had the purpose and effect of altering the legal rights, duties and relations of persons, including the Attorney General, executive branch officials and Chadha, all outside the legislative branch.

Section 244(c)(2) purports to authorize one House of Congress to require the Attorney General to deport an individual alien whose deportation otherwise would be canceled under Sec. 244. The one-House veto operated in this case to overrule the Attorney General and mandate Chadha's deportation; absent the House action, Chadha would remain in the United States. Congress has *acted* and its action has altered Chadha's status.

The legislative character of the one-House veto in this case is confirmed by the character of the Congressional action it supplants. Neither the House of Representatives nor the Senate contends that, absent the veto provision in Sec. 244(c)(2), either of them, or both of them acting together, could effectively require the Attorney General to deport an alien once the Attorney General, in the exercise of legislatively delegated authority, had determined the alien should remain in the United States.

REQUIREMENT OF ARTICLE I

Without the challenged provision in Sec. 244(c)(2), this could have been achieved, if at all, only by legislation requiring deportation. Similarly, a veto by one House of Congress under Sec. 244(c)(2) cannot be justified as an attempt at amending the standards set out in Sec. 244(a)(1), or as a repeal of Sec. 244 as applied to Chadha. Amendment and repeal of statutes, no less than enactment, must conform with Art. I.

The nature of the decision implemented by the one-house veto in this case further manifests its legislative character. After long experience with the clumsy, time-consuming private bill procedure, Congress made a deliberate choice to delegate to the Executive Branch, and specifically to the Attorney General, the authority to allow deportable aliens to remain in this country in certain specified circumstances. It is not disputed that this choice to delegate authority is precisely the kind of decision that can be implemented only in accordance with the procedures set out in Art. I.

Disagreement with the Attorney General's decision to deport Chadha—no less than Congress' original choice to delegate to the Attorney General the authority to make that decision, involves determinations of policy that Congress can implement in only one way; bicameral passage followed by presentment to the President. Congress must abide by its delegation of authority until that delegation is legislatively altered or revoked.

NOT WITHIN EXCEPTIONS

Since it is clear that the action by the House under Sec. 244(c)(2) was not within any of the express constitutional exceptions authorizing one house to act alone, and equally clear that it was an exercise of legislative power, that action was subject to the standards prescribed in Article I. The bicameral requirement, the presentment clauses, the President's veto, and Congress' power to override a veto were intended to erect enduring checks on each branch and to protect the people from the improvident exercise of power by mandating certain prescribed steps.

To preserve those checks, and maintain the separation of powers, the carefully defined limits on the power of each branch must not be eroded. To accomplish what has been attempted by one house of Congress in this case requires action in conformity with the express procedures of the Constitution's prescription for legislative action: passage by a majority of both Houses and presentment to the President.

The veto authorized by Sec. 244(c)(2) doubtless has been in many respects a convenient shortcut; the "sharing" with the executive by Congress of its authority over aliens in this manner is, on its face, an appealing compromise. In purely practical terms, it is obviously easier for action to be taken by one House without submission to the President, but it is crystal clear from the records of the Convention, contemporaneous writings and debates, that the Framers ranked other values higher than efficiency. The records of the convention and debate in the states preceding ratification underscore the common desire to define and limit the exercise of the newly created Federal powers affecting the states and the people. There is unmistakable expression of a determination that legislation by the national Congress be a step-by-step, deliberate and deliberative process.

The choices we discern as having been made in the Constitutional Convention impose burdens on governmental processes that often seem clumsy, inefficient, even unworkable, but those hard choices were consciously made by men who had lived under a form of government that permitted arbitrary governmental acts to go unchecked. There is no support in the Constitution or decisions of this Court for the proposition that the cumbersomeness and delays often encountered in complying with explicit constitutional standards may be avoided, either by the Congress or by the President. With all the obvious flaws of delay, untidiness, and potential for abuse, we have not yet found a better way to preserve freedom than by making the exercise of power subject to the carefully crafted restraints spelled out in the Constitution.

We hold that the Congressional veto provision in Sec. 244(c)(2) is severable from the Act and that it is unconstitutional. Accordingly, the judgment of the Court of Appeals is

Affirmed.

MAJOR LAWS WITH VETO PROVISIONS

War Powers Resolution of 1973. Under this landmark legislation, Congress could force a President to remove American forces engaged in hostilities in other countries.

Congressional Budget and Impoundment Control Act of 1974. Under this law, either the House of Representatives or the Senate could force the executive branch to spend money on a specific project.

Military Appropriation Authorization Act of 1975. Under this legislation, a concurrent resolution of Congress could restrict export of certain defense-related or technological products.

International Security Assistance and Arms Control Act of 1976. This law permits Congress to override a Presidential decision to sell military equipment to a foreign nation.

Nuclear Nonproliferation Act of 1978. Congressional action could end agreements for the storage and disposal of spent nuclear fuel and the export of nuclear facilities or technology.

Federal Trade Commission Improvements Act of 1980. Under this law, commission rules could be overturned by a concurrent resolution. Last year, for example, Congress vetoes a "used car rule" that would have required automobile dealers to disclose known mechanical defects and the availability of a warranty.

Federal Land Policy and Management Act of 1976. This law permits Congress to disapprove sales of public lands larger than 2,500 acres.

(Legislative vetoes have been included in many other statutes, providing Congress with the power to overturn regulations affecting historic preservation, coastal-zone management, farm credit, the designation of marine sanctuaries, the establishment of an oil and gas lease bidding system and the use of insecticides, fungicides and rodenticides.)

FROM DISSENTING OPINIONS

(By Justice White)

Today the Court not only invalidates sec. 244(c)(2) of the Immigration and Nationality Act, but also sounds the death knell for nearly 200 other statutory provisions in which Congress has reserved a "legislative veto." For this reason, the Court's decision is of surpassing importance. And it is for this reason that the Court would have been well-advised to decide the case, if possible, on the narrower grounds of separation of powers, leaving for full consideration the constitutionality of other congressional review statutes operating on such varied matters as war powers and agency rulemaking, some of which concern the independent regulatory agencies.

A MEANS OF DEFENSE

The history of the legislative veto makes clear that it has not been a sword with which Congress has struck out to aggrandize itself at the expense of the other branches—the concerns of Madison and Hamilton. Rather, the veto has been a means of defense, a reservation of ultimate authority necessary if Congress is to fulfill its designated role under Article I as the nation's lawmaker.

While the President has often objected to particular legislative vetoes, generally those left in the hands of congressional committees, the executive has more often agreed to legislative review as the price for a broad delegation of authority. To be sure, the President may have perferred unrestricted power, but that could be precisely why Congress thought it essential to retain a check on the exercise of delegated authority.

For all these reasons, the apparent sweep of the Court's decision today is regrettable. The Court's Article I analysis appears to invalidate all legislative vetoes irrespective of form or subject. Because the legislative veto is commonly found as a check upon rulemaking by administrative agencies and upon

broad-based policy decisions of the executive branch, it is particularly unfortunate that the Court reaches its decision in a case involving the exercise of a veto over deportation decisions regarding particular individuals.

Courts should always be wary of striking statutes as unconstitutional; to strike an entire class of statutes based on consideration of a somewhat atypical and more-readily indictable exemplar of the class is irresponsible.

A DIVISIVE ISSUE

If the legislative veto were as plainly unconstitutional as the Court strives to suggest, its broad ruling today would be more comprehensible. But, the constitutionality of the legislative veto is anything but clear-cut. The issue divides scholars, courts, attorneys general, and the two other branches of the national Government. If the veto devices so flagrantly disregarded the requirements of Article I as the Court today suggests, I find it incomprehensible that Congress, whose members are bound by oath to uphold the Constitution, would have placed these mechanisms in nearly 200 separate laws over a period of 50 years.

The reality of the situation is that the constitutional question posed today is one of immense difficulty over which the executive and legislative branches—as well as scholars and judges—have understandably disagreed. That disagreement stems from the silence of the Constitution on the precise question: The Constitution does not directly authorize or prohibit the legislative veto.

Thus, our task should be to determine whether the legislative veto is consistent with the purpose of Art. I and the principles of separation of powers which are reflected in that Article and throughout the Constitution.

We should not find the lack of a specific constitutional authorization for the legislative veto surprising, and I would not infer disapproval of the mechanism from its absence. From the summer of 1787 to the present the government of the United States has become an endeavor far beyond the contemplation of the Framers. Only within the last half century has the complexity and size of the Federal Government's responsibilities grown so greatly that the Congress must rely on the legislative veto as the most effective if not the only means to insure their role as the nation's lawmakers.

But the wisdom of the Framers was to anticipate that the nation would grow and new problems of governance would require different solutions. Accordingly, our Federal Government was intentionally chartered with the flexibiity to respond to contemporary needs without losing sight of fundamental democratic principles.

In my view, neither Article I of the Constitution nor the doctrine of separation of powers is violated by this mechanism by which our elected representatives preserve their voice in the governance of the nation.

The Court's holding today that all legislative-type action must be enacted through the lawmaking process ignores that legislative authority is routinely delegated to the Executive branch, to the independent regulatory agencies, and to private individuals and groups.

This Court's decisions sanctioning such delegations make clear that Article I does not require all action with the effect of legislation to be passed as a law.

If Congress may delegate lawmaking power to independent and executive agencies, it is most difficult to understand Article I as forbidding Congress from also reserving a check on legislative power for itself. Absent the veto, the agencies receiving delegatons of legislative or quasi-legislative power may issue regulations having the force of law without bicameral approval and without the President's signature. It is thus not apparent why the reservation of a veto over the exercise of that legislative power must be subject to a more exacting test. In both cases, it is enough that the initial statutory authorizations comply with the Article I requirements.

I do not suggest that all legislative vetoes are necessarily consistent with separation of powers principles. A legislative check on an inherently executive function, for example that of initiating prosecutors, poses an entirely different question. But the legislative veto device here—and in many other settings—is far from an instance of legislative tyranny over the Executive. It is a necessary check on the unavoidably expanding power of the agencies, both executive and independent, as they engage in exercising authority delegated by Congress.

I regret that I am in disagreement with my colleagues on the fundamental questions that this case presents. But even more I regret the destructive scope of the Court's holding. It reflects a profoundly different conception of the Constitution than that held by the Courts which sanctioned the modern administrative state. Today's decision strikes down in one fell swoop provisions in more laws enacted by Congress than the Court has cumulatively invalidated in its history. I fear it will now be more difficult to insure that the fundamental policy decisions in our society will be made not by an appointed official but by the body immediately responsible to the people.

I must dissent.

(By Justice Rehnquist)

A severability clause creates a presumption that Congress intended the valid portion of the statute to remain in force when one part is found to be invalid. A severability clause does not, however, conclusively resolve the issue. "The determination, in the end, is reached by" asking "what was the intent of the lawmakers," and "will rarely turn on the presence or absence of such a clause." Because I believe that Congress did not intend the one-house veto provision of Sec. 244(c)(2) to be severable, I dissent.●

OLIVER BROWN TRUCKING CO. CELEBRATES 20TH ANNIVERSARY

● Mr. LAUTENBERG. Mr. President, August 7 will mark the celebration of a remarkable success story. Oliver Brown Trucking Co., of Middlesex, N.J., will have been in operation for 20 years.

I have known Oliver Brown for some time through his distinguished cousin, State Assemblyman Willie Brown of Newark. Oliver Brown's story is one that exemplifies the best of what can happen in this country. It is the story of one man, who raised himself through hard work and perseverance to become the owner of a nationwide minority business.

Oliver Brown began his trucking business in 1963 collecting wayward supermarket carts with his pickup truck. Shortly after, he expanded and began hauling groceries and produce. Since then, his fleet has grown from that 1 pickup truck to well over 100 vehicles. Recently, his business reached nationwide proportions.

Oliver Brown has also been active in his community and in the trucking industry. He was recently elected vice president of the New Jersey Motor Truck Association. He continues to serve as a board member of the American Trucking Association.

The extraordinary success of his business stands as both testimony to his character and an inspiration to all who have the dream of improving their life. I am very proud to have been associated with his family and to join those celebrating his first 20 years of business.●

PARTNERSHIP THAT IS WORKING

● Mr. TSONGAS. Mr. President, the issue of improving the quality of public education in America has become the hottest topic of the summer. While there has been an inclination to emphasize only the failures and deficiencies of our system, there is a responsible move to highlight educational programs and initiatives that do work.

Goals for Boston, which is celebrating its first anniversary, is a prime example of a working public-private partnership. Several major concerns are being addressed by Goals for Boston. The Boston Compact, an agreement between education and business, is an exemplary program that reflects the success of these partnerships. Boston Compact increases job opportunities for graduates from Boston's city high schools and has been lauded as a national example of how public-private partnerships can work in the area of education.

William S. Edgerly is chairman of Goals for Boston and president of the State Street Bank in Boston. He has written an editorial in today's Boston Globe on Goals for Boston and I believe it is worth sharing with my colleagues.

Mr. President, I ask that this article be printed in the RECORD.

The article follows:

[From the Boston Globe, July 12, 1983]

PARTNERSHIP THAT'S WORKING

(By William S. Edgerly)

Goals for Boston celebrates its first anniversary today. One year ago. James Rouse came to Boston with a vision and a challenge. Rouse, the creative force behind Quincy Market, was the keynote speaker at a forum on public-private partnership efforts. His remarks to an audience of business, government and community leaders were stirring. His message was simple. Managing our communities in the 1980s, in the face of tightening finances and worsening social problems, required a new style. The

private, public and not-for-profit sectors must become partners, in deed as well as in word. Agendas must be merged, goals shared. To remain mired in the adversarial style of the past could frustrate and curtail the prosperity of any vital, exciting city, including ours.

Rouse's challenge stimulated an extraordinary dialogue among conference participants, and resulted in the emergence of the Goals for Boston program. At our first anniversary, I believe we all recognize that continued progress in Boston does depend on our willingness to work together, our commitment to a shared vision of achievement, and our mutual respect and trust as partners.

What are public-private partnerships about? They are ventures that combine the responsibilities and resources of business, government, community agencies and foundations to meet a community need. Each partner brings resources. Each expects to benefit. There is the hard work of consensus-building, of compromise, of conciliation. Partnerships require crossing borders. Partnerships are creative and entrepreneurial by nature; they push the partners to think beyond the limits of their own organizations. They can change the nature of relationships between groups: city government moves from being a regulator to being an innovator. Business moves from being a spectator to being involved. Service providers see themselves not as applicants for funds but as important resources in developing programs.

A tally at last year's public-private partnership forum highlighted 20 examples among the large number of effective partnership efforts in Boston. More have been added during the past year.

There is no more striking example than the Boston Compact, recognized nationally as a model agreement between business and education. What a year ago was a tentative discussion about how corporations and schools could work together to provide jobs for high school graduates, and thereby help improve our schools, has now become a contract among the public schools and over 200 local employers. The compact is a major educational initiative for Boston, aimed at providing qualified graduates from the city's high schools and assuring them access to good jobs.

In the past six months, Goals for Boston initiated the Boston Housing Partnership, Inc., which is like the compact in its potential to meet an important need. The partnership intends to support community organizations in the renovation of 500 units of affordable multi-family rental housing across Boston neighborhoods. At the same time, the partnership will examine a range of housing issues, concentrating on ways to intervene in the cycle of deterioration, tax delinquency, abandonment and arson that deprives Boston of so much potentially salvageable housing stock.

Fundamental challenges continue to confront the city: among them racial tensions, structural unemployment and adult illiteracy. The Goals for Boston agenda will continually evolve. The program will bring together key participants, nurture their collaborative efforts, and help concentrate their energies on significant goals that can make a difference for the city.

We need to seek progress, to celebrate our successes, and to persevere in our joint efforts. In a spirit of partnership, we can achieve meaningful results.●

COMEX 50TH ANNIVERSARY

● Mr. D'AMATO. Mr. President, on the occasion of the 50th anniversay of the Commodity Exchange in New York City, I would like to extend greetings and congratulations to its membership. As chairman of the Subcommittee on Securities and as a native New Yorker, I take pride in bringing to your attention the many contributions the exchange has made to the growth and development of the financial centers in New York, the United States, and the world.

Fifty years ago today, the National Metal Exchange, the Rubber Exchange of New York, the National Raw Silk Exchange, and the New York Hide Exchange merged to form the Commodity Exchange. Since then, Comex has become the world leader in the trading of gold, silver, and copper. Here, in the United States, its market share of metals future trading has risen to 82.6 percent. Comex is responsible for 100 percent of all copper futures traded in this country, 86.2 percent of all gold futures, and 74.2 percent of all silver futures. It assures liquidity and depth in the metals market.

It is extremely gratifying to note that these accomplishments have benefited both members and nonmembers. Comex is a vital part of the financial structure in New York City and has put New York alongside Chicago as the two premiere cities in the rapidly growing world of commodities trading. The economic activity generated from the Comex floor moves through hundreds of brokerage offices, creating thousands of jobs. Moreover, Comex provides a vital service for the country, and the world, by maintaining a free market in metals future trading, which is a tremendous help to those industries and to investors of all kinds.

Comex also refuses to rest on its past laurels. It recently introduced options on gold futures and applied to the Commodity Futures Trading Commission for permission to trade aluminum futures. Thus, it is clear that Comex has a praiseworthy commitment to the future.

Mr. President, I therefore believe that it is appropriate to salute Comex on its 50th birthday, and on its contributions to the economies of financial centers throughout the world.●

ACID RAIN: TWO NEW REPORTS PROVIDE THE AMMUNITION FOR ACTION

● Mr. HUMPHREY. Mr. President, shortly before the Senate recessed for the Fourth of July, two vitally important studies on acid rain were released. These studies—one from the National Academy of Sciences (NAS) and the other from a scientific panel appointed by the White House—provide the facts that Congress needs in order to enact acid rain control legislation.

On June 29, the National Academy of Sciences officially released a study entitled "Acid Deposition: Atmospheric Processes in Eastern North America, a Review of Current Understanding." Prepared by a distinguished panel of experts under the auspices of the National Research Council, this study looked in detail at two of the central scientific issues in the national debate on acid rain.

First, the committee considered to what extent reductions in pollutant emissions would lead to commensurate reductions in acid deposition. The committee found that "on the average, deposition is proportional to emissions." In other words, there is essentially a linear relationship between levels of emissions and deposition. If, for example, we require a 50-percent overall reduction in sulfur dioxide emissions, we will achieve roughly a 50-percent reduction in overall wet and dry acid deposition.

The other major issue addressed by the NAS study is the extent to which a distinction can be made between the influence of distant and local sources of pollutants on levels of acid deposition in ecologically sensitive areas of North America. The committee concluded that although such a distinction could not be made on the basis of currently available data, looking at northeastern North America as a whole, overall acid deposition would be reduced in proportion to an overall reduction in emissions.

Just the day before the NAS released this study, the White House Office of Science and Technology Policy (OSTP) issued a document entitled "General Comments on Acid Rain," which was prepared by a panel of nine scientists appointed to review the findings of the acid rain research conducted under the United States-Canada Memorandum of Intent on Transboundary Air Pollution. While acknowledging that we still have much to learn about acid rain, the panel concludes that the serious and potentially irreversible effects of acid rain are such that immediate action is called for. Notes the panel, "It is in the nature of the acid deposition problem that actions have to be taken despite incomplete knowledge." The committee recommends prompt reductions in sulfur dioxide emissions, "beginning with those steps that are most cost effective in reducing total deposition." As a Wall Street Journal article on the subject points out, "the report represents the strongest and most direct statement on the subject so far by a White House-sanctioned group."

The combined message of the NAS and OSTP reports is that it is time to take action on acid rain. It is my sincere hope that the administration and

Congress will face this issue head on, and join in the effort to enact legislation to protect our environment from acid rain. Earlier this year, 197 New Hampshire communities voted in their town meetings for a resolution calling on both the United States and Canada to undertake 50-percent reductions in sulfur dioxide emissions. These newest studies, coupled with earlier research findings on acid rain, indicate that a 50-percent cut in acid rain is not only achievable, but that indeed it is a goal on which we cannot compromise.

On Friday, July 8, the Oil Daily carried an editorial entitled "Acid Rain Won't Go Away," which points out that it is time for the coal and electric utility industries to join the debate in a constructive fashion. While I strongly disagree with the editorial's assessment that a program of gradual reductions in emissions would constitute a sensible compromise, I commend the Oil Daily for recognizing political realities and advocating industry cooperation in the effort to craft acid rain control legislation.

Mr. President, I ask that a Washington Post article, a statement issued by the White House, and an editorial from the Oil Daily appear in the RECORD at this point.

The material follows:

[From the Washington Post, June 30, 1983]

ACADEMY OF SCIENCES REPORT: ACID RAIN TIED DIRECTLY TO EMISSIONS

(By Cass Peterson)

The National Academy of Sciences, sharply undercutting the Reagan administration's position on acid rain, said yesterday that there is a direct link between the sulfur dioxide spewing from industrial smokestacks and the death of aquatic life in lakes and streams of the United States and Canada.

The academy's finding of a proportional, one-on-one relationship between sulfur dioxide emissions and the phenomenon of acid rain was immediately hailed by environmentalists, who said it shreds President Reagan's argument that not enough is known about acid rain to warrant expensive new curbs on sulfur dioxide emissions.

"This report effectively concludes the scientific debate," said Richard E. Ayres, chairman of the National Clean Air Coalition, an umbrella group of environmental, health, labor and religious groups. "The academy's judgment is clear. Control at the source will work and it ought to begin."

The report also was welcomed by Canadian officials, who have pressed the administration to impose new controls of U.S. emissions in an effort to halt the mounting acid rain damage in eastern Canada, where dozens of lakes are completely dead and hundreds more are dying.

"The report has finally put to rest the notion that what goes up perhaps doesn't altogether come down," said George Rejhon, environmental counselor to the Canadian Embassy in Washington.

But the academy's conclusion brought anguished cries from the Midwest, home of the coal-fed power plants that are the nation's biggest source of sulfur dioxide emissions. It also brought a sharp rebuttal from the coal industry, which sees a crackdown on acid rain as a threat to the high-sulfur coal fields of the Ohio Valley. Despite mounting pressure from Canada, conservationists and Congress—where acid rain control bills are pending in both the House and the Senate—the administration has resisted pressure for tighter pollution controls, contending that scientists could not guarantee that cutting emissions would ease the problem enough to make it worth the money. Instead, the administration has called for additional research.

That position has been under review since William D. Ruckelshaus took over as head of the Environmental Protection Agency a month ago, but yesterday Ruckelshaus said that the newly released study does not necessarily mean the administration should take immediate action on acid rain.

"Understanding the nature of the problem and deciding what to do about it are two different things," he said.

However, a panel appointed by Reagan's science adviser reported earlier this week that the environmental risks were so great that a solution must be found despite the scientific uncertainties.

Yesterday's report goes one step further, saying that while researchers cannot identify which specific smokestack contributes to which dying lake, it is reasonably certain that a 50 percent reduction in sulfur dioxide emissions will yield the same reduction in acid rainfall.

The panel appointed by the White House suggested "economically efficient" steps to cut sulfur dioxide emissions, such as washing coal in a chemical bath to reduce its sulfur content. More expensive options include switching to low-sulfure coal or alternate fuels, or fitting smokestacks with "scrubbers" to remove sulfur.

None of the methods is cheap, however, and scientists who worked on the academy report firmly declined to suggest how government policymakers should put their findings into practice.

But the chairman of the group, Dr. J. G. Calvert. an atmospheric scientist with the National Center for Atmospheric Research in Boulder, Colo., said the conclusion should reassure lawmakers and government officials "that they can get something for their bucks. It is a help to know that if we cut back anywhere we're going to get a benefit from it."

Acid rain is the term applied to acidic compounds formed when airborne pollutants, chiefly sulfur dioxide (a byproduct of burning coal) and nitrogen oxide (which comes mainly from cars), are changed chemically in the atmosphere and come to earth as dry particles or mixed in rain and snow.

The phenomenon is blamed for severe environmental damage in eastern Canada and the northeastern United States, where some lakes and streams have been stripped of aquatic life. Recent studies have suggested that acid rain may be linked to forest damage, and scientists also are concerned that the acids may free metals in lake and stream sediments, posing a potential threat to drinking water supplies.

In its report yesterday, the academy discounted the effects of nitrogen oxides.

Canadian officials blame sulfur dioxide emissions from the coal-burning power plants of the midwestern United States for much of their acid rain damage.

But Carl E. Bagge, president of the National Coal Association, noted that the scientists could not determine the specific contribution of one area's pollution to another area's environmental damage. "In plain English, scientists can't yet determine the relative importance of midwestern emissions to rainfall in the sensitive areas of the Northeast," Bagge said.

"While this report will be touted as justifying proposed acid rain measures, it actually exposes the Achilles' heel of the current politically based bills," he said.

In anticipation of the academy's report, the electric power industry fired its round Tuesday, warning that congressional strategies that focus on the sulfur-emitters of the Midwest will raise electricity rates in some areas by as much as 50 percent.

While several government studies have rebutted the industry's rate figures, the economic arguments of the administration and industry have been persuasive in the last two years, especially among coal-state legislators who envision a disaster in high-sulfur coal markets.

The concerns have effectively frozen the Clean Air Act in its tracks. But congressional sponsors of acid rain legislation said yesterday they expect the new report to put some steam behind their bills.

"I believe that the academy study will give us a tremendous amount of momentum to pass acid rain control legislation by the end of the year," said Rep. Henry A. Waxman (D-Calif.), who with Rep. Gerry E. Sikorski (D-Minn.). has introduced a bill that would force gradual nationwide reductions of sulfur dioxide of more than 50 percent.

A similar but less sweeping proposal, involving only the 31 states bordering or east of the Mississippi River, already has been approved by the Senate Environment and Public Works Committee. Chairman Robert T. Stafford (R-Vt.), a cosponsor of that bill, said he was "more and more optimistic" that acid rain control measures would be included in a reauthorization of the Clean Air Act this year.

Environmentalists cite other positive signs as well, including Secretary of State George P. Shultz's apparent interest in resolving acid rain as a foreign policy problem between the United States and Canada.

The report released yesterday was a follow-up to an academy study released in 1981, which determined that a 50 percent reduction in acid rain would prevent damage in sensitive freshwater areas. But the 1981 report drew no conclusions on what level of emission control would be needed to reduce acid rain by that amount.

The academy was denied government funding for its follow-up report, but it did the study anyway, using funds from an consortium of foundations.

JUNE 28, 1983, INTERIM REPORT FROM OSTP'S ACID RAIN PEER REVIEW PANEL

The White House Science Office today released a report summarizing findings to date by a panel of nine scientists who have been conducting a review of the state of knowledge about acid rain. The group was appointed in 1982 by Presidential Science Advisor George A. Keyworth, II, to review U.S.-Canadian scientific studies and to provide an independent assessment of the acid rain problem.

The summary being released now will be part of a larger report to be submitted to the Science Advisor later this year. It includes a discussion of cause/effect relationships associated with acid rain. Notwithstanding the generally limited knowledge about how sulfur and nitrogen emissions are specifically transported and converted into acid precipitation, the Panel has concluded

that the phenomena of acid deposition constitute a problem for which solutions should be sought. In this regard the Panel has recommended reduction from present levels in the emissions of sulfur compounds into the atmosphere, beginning with those steps that are most cost-effective in reducing total deposition.

The OSTP Panel is chaired by William A. Nierenberg, Director of the Scripps Institution of Oceanography. Copies of the five-page summary are available from the Office of Science and Technology Policy, Executive Office of the President, Washington, D.C. 20500.

GENERAL COMMENTS ON ACID RAIN

(A Summary of the Acid Rain Peer Review Panel for the Office of Science and Technology Policy, Executive Office of the President, June 27, 1983)

The United States and Canada together are emitting annually more than 25,000,000 tons of sulfur dioxide (SO_2) and a comparable amount of nitrogen oxides (NO) and NO_2), abbreviated as (NO_x), and these oxides can be converted by atmospheric chemical processes into sulphuric (H_2SO_4) and nitric (HNO_{23}) acids. The emissions are large enough to increase appreciably the acidity of natural rainfall, and rain in most of eastern Northern America is considerably more acid than that expected from natural processes alone. The Clean Air Act of 1970 marked the formal recognition by the U.S. government of the importance of reducing the emissions of sulfur to the atmosphere, and new power plants constructed since that time do control such emissions to lower levels. Such controls were a prudent first step. We recommend that additional steps should be taken now which will result in meaningful reductions in the emissions of sulfur compounds into the atmosphere beginning with those steps which are most cost effective in reducing total deposition.

The incomplete present scientific knowledge sometimes prevents the kinds of certainty which scientists would prefer, but there are many indicators which, taken collectively, lead us to our finding that the phenomena of acid disposition are real and constitute a problem for which solutions should be sought:

(1) The emissions of SO_2 and NO_x in eastern North America are at least ten times larger from human activities than from natural processes.

(2) A substantial fraction of such emissions are observed to return as sulfate (SO_4=) and nitrate (NO_3−) in rainfall; a probably comparable amount returns as "dry" deposition through surface interaction processes which are more difficult to monitor than the "wet" deposition in rain.

(3) In eastern North America the areas receiving the largest amounts of these acid rains are found within and downwind from the major source regions.

(4) The acidity of precipitation, some streams and some lakes in these major receptor regions are greater than the "natural" levels.

(5) Although some kinds of lakes have been acid throughout their known history, others located in principal receptor areas have become appreciably more acid during the past ten or twenty years.

(6) These changes in lake acidity have been accompanied by major changes in the biological activity within them, often including the disappearance of some species of fish.

(7) The largest of such aquatic effects have occurred in regions in which acidity is not "buffered" by the presence of alkaline minerals.

(8) Major areas of eastern North America have been identified whose geological composition is characterized by the absence of any important buffering capacity.

(9) Extensive evidence exists for increasing forest damage in eastern North America during the past few decades. Evidence of acid deposition as the primary cause for such harmful ecological effects on forests and other nonagricultural soils is, at present, much less compelling than that for aquatic damage.

The overall scientific understanding of the various aspects of acidic precipitation is quite incomplete at the present time, and will continue to have major uncertainties well into the future. Some of these gaps in our knowledge are permanent because the necessary measurements were not made ten, twenty, or fifty years ago before the potential future utility of such information was recognized. Other gaps exist because the needed scientific techniques have not yet been perfected or have not been adapted to the scale required for measurements covering much of the entire Western Hemisphere. Some of the important information will require at least ten or twenty years of additional data collection to take full cognizance of atmospheric variability and atmospheric cycles. Biological systems are extremely complex and variable. Response and recovery of many of these systems to external stress will require long-term (decades) detailed study for full evaluation. For these reasons, any current scientifically-derived recommendations must be based upon an imperfect, always increasing, body of pertinent data whose quality and completeness can be expected to improve for decades. Recommendations based upon imperfect data run the risk of being in error; recommendations for inaction pending collection of all of the desirable data entail even greater risk of damage.

The chemical processing of SO_2 and NO_x into acids in the atmosphere potentially involves a very large number of chemical reactions, and the relative importance of these various reactions changes drastically with time and location, often in response to varying meteorological conditions. Sulfur and nitrogen can be removed from the atmosphere in various chemical forms, and by both dry processes at the surface and wet processes in rainfall. Measurements of SO_4= and NO_3− in rainfall are now widespread, but do not have a long historical base. Measurements of dry deposition are so scattered (and experimentally doubtful) that quantitative assessment is essentially not possible even now.

The modeling of atmospheric emissions, transport and deposition has been confined almost entirely to the sulfur cycle, leaving nitrogen (and all else) to the future. The existing models do not agree with one another, and cannot be verified by comparison with observation because of the scarcity of good field data. They actually do not do very well in reproducing the observations on gaseous SO_2 that are available. Such models cannot be relied upon for (a) estimation of how much material emitted at A will be deposited at B; and (b) how much SO_2 will have been first converted to H_2SO_4.

There exists now no acceptable method for the determination of source/receptor relationships on a scale much smaller than "eastern North America." With a very large effort in laboratory atmospheric chemistry, in field measurements, and in atmospheric modeling, it might be possible within ten years (but certainly not five years) to produce a source/receptor model for eastern North America. We have great hope that methodology based on the use of natural tracers in fossil fuels may bypass some of these difficulties and perhaps reduce the time needed to elucidate this complex of problems. When a verified model exists in the future, there is a possibility that the source/receptor relationship will be sufficiently complex and variable that similar emission controls would still need to be assigned over rather large areas rather than locally.

Reduction below present SO_2 emission levels would reduce total sulfur deposition levels and as a consequence both reduce the probability for major changes in additional acid sensitive lakes or forests and allow the possibility for a return toward the original biological conditions existing in recently acidified areas.

The effects of acid deposition on biological systems in North America varies from certain to speculative. There is no question that some fresh water bodies have been altered in sensitive areas. The increase of acidity can reach levels which result in the release or "mobilization" of aluminum from solid minerals raising the possibility of toxic metal effects on biological species in both lakes and forest soils. There is strong evidence for damaging effects on limestone monuments, bridges and buildings, and other structures, but there is no good estimate of the economic magnitude of these effects.

The effect of air pollutants on agriculture may be important but the quantitative evidence is scanty. (An estimate for ozone damage to agriculture in the United States is five percent of the cash value. We anticipate that the overall effect of acid precipitation on crops could be comparably significant.)

There is a tendency in the scientific literature to speak of "long-term" and "short-term" effects, or of "irreversible" and "reversible" changes. Damage to fresh water lakes, where is exists, may require a recovery time varying from a few years to tens of years when the stress is removed. This variation depends upon the availability in the environment of species for colonization, the extent to which trace element composition has been altered, and similar factors. The recovery time of a stressed sylvan environment is probably several decades or more in New England and Canadian latitudes. With both forests and lakes, the term "irreversible" might be used for a recovery time which stretches beyond a few decades.

We as a committee are especially concerned about possible deleterious effects of a sustained increase in the acidity of unmanaged soils. Its microorganism population is particularly sensitive to a change in acidity. But it is just this bottom part of the biological cycle that is responsible for the recycling of nitrogen and carbon in the food chain. The proper functioning of the denitrifying microbes is a fundamental requirement upon which the entire biosphere depends. The evidence that increased acidity is perturbing populations of microorganisms is scanty, but the prospect of such an occurrences is grave. It may take many years of accumulation of acidity, from wet or dry deposition, before measurable consequences would be observed. Such an effect is "long-term" or "irreversible." It may take at least

that many years or longer for the soils to revert to their original condition. It is this possibility which provides us with the greatest concern.

"Acid rain" or acid precipitation belongs to a socially very important class of problems that have the superficial aspects of being amenable to a permanent solution achieved by a straightforward sum of existing technological and legislative fixes. This is very deceptive. Rather, this class of problems is usually not permanently solved in a closed fashion, but is treated more commonly to accommodate a steady increase in knowledge and understanding, taking various actions that appear most effective and economical at any given time.

It is in the nature of the acid deposition problem, that actions have to be taken despite incomplete knowledge. We have earlier given estimates of how long it may take to understand the "wet" chemistry, or the biological response. Reasonably accurate models incorporating relevant meteorology, chemistry, minerology and biology take even longer. If we take the conservative point of view that we must wait until the scientific knowledge is definitive, the accumulated deposition and damaged environment may reach the point of "irreversibility."

We feel that the proper initial approach is to select particularly economically effective steps to begin to reduce our concerns in the light of gross transport and deposition features that have been identified, associated with seasonal and geographical variation. Purely as an example, it may be useful to consider having fuel of different sulfur content during different seasons since the efficiency for wet sulfuric acid deposition seems to be much less in winter. As other examples, first "least cost" steps might be gross reductions in sulfur emissions from non-ferrous smelters and intensifying coal washing.

[From the Oil Daily, July 8, 1983]

ACID RAIN WILL NOT GO AWAY

Serious questions continue to be raised about the environmental phenomenon that has come to be called acid rain. In the past 10 days, however, the questions have started to come not from environmentalists but from leading members of the scientific community.

Separate reports by the National Academy of Sciences' National Research Council and a panel of scientists appointed by the White House Office of Science and Technology Policy have urged curbing pollution from industrial sources to reduce acid rain, deposits of acidic and metallic particles in dry form as well as rain and snow that have been found to kill fish and other wildlife in northeastern and Canadian lakes and forests. The result, according to key Reagan administration and Environmental Protection Agency officials, is that it appears more likely than ever that the administration will have to soften its declaration that more research on the problem is needed and start examining possible solutions.

Achieving those solutions won't be easy. There's some consolation that while EPA Administrator William D. Ruckelshaus apparently regards the momentum for an acid rain regulatory program as "a juggernaut," he probably will wait for the report of the special acid rain task force which he formed last month to examine technical and policy options. Initial indications are that the suggested path will be away from the sweeping measures that have been proposed by some northeastern lawmakers and toward a series of gradual reductions that will allow time to examine their impact on the acid rain problem.

Such an approach would be the most sensible compromise. An initial reduction in annual sulfur dioxide emission of 3 million to 4 million tons makes much more sense than the 8 million or 14 million currently mandated in legislation now pending. Industries believed to be the source of the emissions should also be given ample opportunity to choose among technologies to reduce the pollution instead of having to install expensive stack scrubbers.

But the program that may well take shape within EPA and its task force requires participation from all sides. For the time being, that's not taking place. Surprisingly, the National Coal Association persists in its declaration that NAS' National Research Council did not demonstrate that a primary source of pollution is midwestern coal-fired power plants. Similarly, the Edison Electric Institute's senior vice president, John J. Kearney, said the current congressional proposals "seem like a multibillion dollar gamble" that would raise electric bills in some parts of the country by as much as 50 percent.

It's important to remember that the attacks by these two groups are aimed at the sweeping bills now before Congress. But in attacking the bills whole-heartedly by seeming to minimize the scientific work done so far in studying acid rain, these two organizations are ignoring some basic political facts. While the American public appears to be more concerned these days about the economic impact of environmental safeguards, it still wants to see its air, water and land protected. With the groundswell of concern mounting over acid rain, time is running short for the utilities and coal operators to quit saying there's no problem and start helping to achieve a solution.

They should do this because there is a problem—a political one that threatens to effectively choke any rebound in domestic use that American coal hopes to enjoy. As long as the burning of coal is regarded as a problem in the eyes of the public at large, manufacturing installations and electric power plants will shy away from it and lean toward other forms of energy. More than acid rain's perceived impacts, that is where the real threat lies.

It will be necessary in the coming months for the involved industries to do more than criticize the current proposed legislation. They will have to become more active, visible partners in the search for a solution to a problem that threatens to poison the potential use of coal in the United States more effectively than the reported pollution of northeastern and Canadian forests, lakes and rivers. While they can derive some encouragement in this administration's sympathy with economic impacts in the midst of a general recovery, they must not underestimate the growing politices of the acid rain question.

When EPA Administrator Ruckelshaus reviews the acid rain task force's report around Aug. 1 and begins to formulate a strategy, it will be well for him to also have some concrete alternatives from the two most affected industries to the sweeping measures currently in Congress. A more visibly cooperative attitude at this point could make a substantial difference.●

NOTICE OF DETERMINATIONS BY THE SELECT COMMITTEE ON ETHICS

● Mr. STEVENS. Mr. President, it is required by paragraph 4 of rule 35 that I place in the CONGRESSIONAL RECORD this notice of a Senate employee who proposes to participate in a program, the principal objective of which is educational, sponsored by a foreign government or a foreign educational or charitable organization involving travel to a foreign country paid for by that foreign government or organization.

The Select Committee on Ethics has received a request for a determination under rule 35 which would permit Dr. James Lucier, of the staff of Senator HELMS, to participate in a program sponsored by a foreign educational organization, Konrad Adenauer Stiftung Foundation, in Bonn, West Germany, from June 30 to July 3, 1983, to discuss the situation in Western Europe after recent elections in West Germany and Great Britain.

The committee has determined that participation by Dr. Lucier in the program in Bonn, West Germany, at the expense of the Konrad Adenauer Stiftung Foundation, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Dr. Leonard Weiss, minority staff director of the Subcommittee on Energy, Nuclear Proliferation, and Government Processes of the Governmental Affairs Committee, to participate in a program sponsored by the International Energy Forum of Japan from May 23, 1983 to June 11, 1983.

The committee has determined that participation by Dr. Weiss in the program in Japan at the expense of the International Energy Forum of Japan, to participate in conferences and deliver addresses regarding nuclear nonproliferation and international nuclear trade, is in the interest of the Senate and the United States.

The select committee has received a request for a determination under rule 35 which would permit Mr. Richard Rolf, of the staff of Senator HATFIELD, to participate in a conference sponsored by the Friedrich Ebert Stiftung Foundation in Bonn, West Germany, from June 22 to June 23, 1983.

The committee has determined that participation by Mr. Rolf in the conference in Bonn, West Germany, at the expense of the foundation to discuss European-American security issues, is in the interest of the Senate and the United States.●

JOE DELANEY

● Mr. JOHNSTON. Mr. President, I was deeply saddened to learn over the

recent holiday of the death of Joe Delaney, a native of Haughton, La.

Joe was an all-American athlete at Northwestern State University in Natchitoches and, for the last 2 years, a star running back for the Kansas City Chiefs of the National Football League.

His athletic talent earned him national fame, but his remarkable personal qualities—his kindness and generosity toward others, particularly young people—earned him something far greater: the deep respect and admiration of all who knew him.

Typical of his devotion to young people, Joe was entertaining a group of children at a park in Monroe on June 29, when he heard three youths call for help from a nearby pond. Without concern for his own safety he rushed to their aid and lost his life attempting to rescue them.

With Joe Delaney's death, we in Louisiana have lost one of our outstanding young citizens, professional football has lost one of its most gifted players, and young people everywhere have lost a true friend, a genuine hero.

I commend to the attention of my colleagues, a tribute to Joe Delaney from the Shreveport Journal, June 30, and ask that it be printed in the RECORD.

The tribute follows:

NO REGULAR GUY

(By John James Marshall)

Forget that Joe Delaney was the Offensive Rookie of the Year in the American Football Conference in 1981. Or that he was a Division 1-AA All-American. Or that he never saw the back of a jersey in the track season of 1977.

Today, none of that matters. None of that is important.

What matters is that Joe Delaney, human being, tried to save the life of three others Wednesday afternoon. Ultimately, that is what he will be judged by. Stacked up against that, nothing else really matters.

Maybe it is ego that makes us think that we would have done the same thing in the same situation. We've all read the books on how to pull somebody out of the water. We all want to be the hero. Headlines. Medals.

But we never really know what we would do when it happens. Joe Delaney wasn't trying to be a hero. He was only doing what was natural for him. It was instinct.

It says something for our society that the only way Joe Delaney got on the CBS Evening News Wednesday night was that he was a professional football player and he drowned. Had he been Joe Delaney, just plain Haughton resident, it would have been two paragraphs lumped with the drug busts and radar locations. Had he saved the children's lives and lived it would have been a nice, human interest story.

But it took tragedy for it to make today's paper or the 6 o'clock news.

There is also irony mixed with this tragedy. On April 18 at Parkway High, Delaney was one of the celebrities at the local Special Olympics. He measured the throws, talked to the kids and like most people who have never been around the less fortunate, he was touched by it all.

In an interview with KTBS-TV that day, Delaney said, "I'm blessed with all the talent in the world. These kids . . . they need somebody to love them. The good thing is that they are living and they have somebody to love them."

It is sad that today is the first day in 24 years that this world will be without Joe Delaney. Dammit, it shouldn't be. Joe should be running, working out in the weight room, doing whatever he pleased today. And smiling.

It was his smile that won people over to Joe Delaney. He had a smile that just warmed your heart. Made you realize that pro football didn't make monsters out of innocent kids after all.

Hopefully, the only impression you have of Delaney is not one that you acquired from television interviews. He was always polite about being interviewed, but he never liked the cameras or the microphones. They made him nervous. Made him talk fast. But he kept smiling.

And there was one side of Delaney that cameras never really brought out.

Sincerity.

You'll read reaction stories about the news of his death and they'll all say basically the same thing. That should tell you something. Joe Delaney was the same person to everybody. The quote from his high school coach sounds almost the same as that of his pro coach. And his pro coach barely knew him.

A few years ago, he was just a kid who could run like the wind and didn't stay in one place long enough to cause trouble.

He never changed.

Maybe he knew he was playing the wrong position in high school, but he never made a big deal out of it. If the coaches want him to play wide receiver, Delaney figured he should play wide receiver and keep quiet about it. Even though he was probably the best running back on the team.

He won every race that mattered during his senior spring. He was successful so it just had to go to his head. It didn't.

Every time he left Haughton he came back the same way. That's why the town loved him. Folks in Haughton didn't want his autograph. They just wanted to say hi to him. Ask about the family. Say they saw him on TV. Just talk. He was their pride. Their joy.

Three months ago, a media team was scheduled to play representatives of Haughton High in a a basketball game. Bill Tynes, the head basketball coach, called and said, "We're going to get Joe Delaney to play 'cause everybody wants to see him."

We all expected Delaney to come walking in with fancy warmup that would put Liberace to shame. Maybe have an entourage of 20 and loud music surrounding him.

We should have known better.

To be honest about it, nobody really noticed him until the lineups were introduced. He was as friendly as always. He shook hands and was ready to have a little fun. And smiled.

He scored eight points that night and told us that he'd just love to play again. He made a point to tell us to be careful going home. He didn't even get into a Mercedes. Just a regular car.

It was nice to think that this NFL star was a regular guy. But Wednesday afternoon in Monroe, Joe Delaney proved that he was far from a regular guy.

God bless him.●

THE CONGRESSIONAL BUDGET PROCESS

● Mr. QUAYLE. Mr. President, the congressional budget process has evolved into a major instrument for making fiscal and economic policy. It has been the subject of study by many persons, both inside and outside Government, urging its reform and improvement. As part of the effort to strengthen and improve the budget process, earlier this year I introduced along with Senator FORD of Kentucky, S. 12, the Budget Procedures Improvement Act of 1983. This bill would strenghten the Budget Act by establishing a 2-year budget process and two year appropriations. The bill now has eleven cosponsors from both political parties.

Many persons, both inside and outside Congress, have stated their support for the idea of 2-year budget process, including Alice Rivlin, Director of the Congressional Budget Office and Charles Bowsher, Comptroller General of the United States.

The issue of the congressional budget timetable has been made even more significant by the recent U.S. Supreme Court decision invalidating congressional use of the legislative veto. This decision will almost certainly affect congressional actions on deferrals, an activity now done annully within the context of our annual budget process.

Mr. President, recently the Committee for Economic Development (CED) issued a report on the congressional budget process. CED recommends active experimentation with a 2-year budget and 2-year appropriations, and notes that if a biennial process turned out to be suitable for most programs, CED would then recommend a move to a biennial budget.

I ask that CED's remarks with respect to the biennial budget process be printed in the RECORD.

The remarks follow:

REMARKS FROM THE COMMITTEE FOR ECONOMIC DEVELOPMENT, "STRENGTHENING THE FEDERAL BUDGET PROCESS: A REQUIREMENT FOR EFFECTIVE FISCAL CONTROL" JUNE 1983

TWO-YEAR BUDGET CYCLE

There has been mounting interest in proposals for biennial budgeting. As the term is usually used, it implies a shift to a two-year budget resolution and two-year appropriations, as well as reliance on authorizations that have a time span of at least two years. The two-year limit basically reflects the fact that members of the House are elected for only two years at a time.

A biennial budget has many potential advantages. According to its advocates, it should relieve work-load pressures significantly by reducing the frequency of required hearings, reports, and votes on budget matters. It would allow time for more careful consideration of authorizations and for increased oversight of federal programs and agencies. It would be of particular aid to states and localities, which need greater stability and continuity in

funding as well as more timely information on when federal funds will be available.

The principal argument against biennial budgeting is that it might not work out as intended. Because of the difficulty of making reasonably precise forecasts for more than a year ahead, a biennial budget might mean that additional budget resolutions as well as supplemental appropriations and authorizations would become more frequent and troublesome than under the current system, resulting in less careful and integrated consideration of budget issues. Budgetary matters simply sprawl over two years, with no relief of legislative congestion, and Congress might be less decisive than when it faces one-year deadlines.

There are also practical problems in structuring a two-year budget cycle. One possibility would be to schedule all major Congressional decisions involving money (including resolutions and appropriations bills) in the first year of a new Congress, with authorizations and oversight concentrated in the second session. This arrangement would enable a new President to put budget policies into effect shortly after entering office. A potential problem is that the incoming President would have to formulate a new budget plan for two years within a relatively short period of time. An alternative would be to reverse the sequence; however, this would require the President to wait for a full year before receiving an opportunity to present his own program for Congressional consideration. Still another approach would be to spread most aspects of budget making over the two years, but this would have other drawbacks.

Because there are still many unresolved questions with respect to a two-year budget cycle, we do not favor an immediate, across-the-board shift to biennial budgeting. Instead, we recommend a more gradual approach toward extending the time frame for budget and related money decisions and legislation. This would involve active experimentation with the use of two-year appropriations and other longer-term funding arrangements for particular types of activities, depending on what makes the most sense from an economic and administrative viewpoint in each instance. For example, there are many agencies whose programs do not change significantly from year to year in response to underlying economic conditions. In such cases, appropriations covering two years or even longer periods may be entirely justified and would avoid the unnecessary cost and effort involved in the requirements for annual budget submissions and Congressional votes. For other types of programs or agencies, different time horizons may be appropriate. If a two-year decision cycle should turn out to be suitable for a high percentage of programs, our recommendations would be consistent with an eventual move to a biennial budget.●

SOLVING THE EDUCATION CRISIS

● Mr. ABDNOR. Mr. President, much has been written and said recently about the problems of our Nation's educational system and what it portends for the future of this Nation.

Equipping our youngsters with the basic skills necessary to function in the world of commerce and service is, of course, of paramount importance. While the situation demands our best corrective efforts, it is encouraging to note that some programs are already underway.

I command to the attention of my colleagues one such program of the Faulkton, S. Dak., schools.

VoWac Enhances Youngsters' Spelling

(By June Preszler Schaeffer)

Faulkton.—Ornithological, Neanderthal and refractometric.

They're tough words—difficult for many an adult to spell correctly.

But second graders at the Faulkton's Independent School have no trouble with them. They just listen carefully to the sound of their teacher's voice and, in their minds, review the word lessons they've learned.

Chalk in hand, they scratch out the words and usually spell them correctly. They might not know what these particular words mean but that was not the day's lesson. While most lessons teach the meaning of words this lesson was intended only to show that, thanks to a system called VoWac, these children are good spellers who understand how the English language works.

Mary Gomer, project director in the Faulkton schools and creator of the VoWac (Vowel-oriented Word Attack Course) says much of the system is based on the mechanics of the language. "The originators of our language hundreds of years ago really had more rhyme and reason to what they did than what we've been teaching our children. There are six basic syllables in the language and almost all words are based on these syllables." She says teaching the children these basics enables them to figure out for themselves how many words are spelled.

VoWac combines three methods of learning—sight, sound and touch. Students hear the word, write (touch) the word and see the word.

Gomer compares the system to coaching a basketball team. "The basketball player can read about basketball, be told about basketball and watch basketball but they're not going to be skilled themselves until they actually practice the game."●

LEE VERSTANDIG

● Mr. COCHRAN. Mr. President, I am pleased to have this opportunity to join with my colleagues in congratulating Lee Verstandig on his appointment as Assistant to the President for Intergovernmental Affairs.

Since 1977, Lee has held several important positions in Government. In the executive branch, he has served as Acting Assistant Administrator for Legislation at the Environmental Protection Agency and as Assistant Secretary for Governmental Affairs at the Department of Transportation. He was also administrative assistant and legislative director to our colleague from Rhode Island, Senator John Chafee. Prior to his Government service, Lee was a professor and administrator at Brown University and at Roger Williams College.

Lee's outstanding academic credentials and his broad experience in both the executive and legislative branches of Government make him especially qualified for his new responsibilities on the White House staff.

Mr. President, I feel we are fortunate to have Lee Verstandig serving in such a responsible position in this administration. I wish him every success in his new position, and I certainly look forward to working with him.●

ORDER OF BUSINESS

Mr. BAKER. Mr. President, I have only one item that I feel we should address this evening. Before I do so, I yield to the Senator from Idaho.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

SENATOR LEN B. JORDAN

Mr. McCLURE. Mr. President, sometimes in a person's life you meet someone and you know that is what God meant for a man to be. As my colleagues know from the press reports during the Fourth of July recess, former Idaho Governor and U.S. Senator Len B. Jordan died in Boise, Idaho, on June 30. It is in truth hard to find words to express my feelings about Len Jordan's passing—deep feelings which I know are shared by the people of Idaho and by many of my colleagues in the Senate as well—except to say that Len Jordan is what God meant for a man to be.

This truly great western pioneer was born in Mount Pleasant, Utah, on May 15, 1899. He attended public schools in Enterprise, Oreg., and later enlisted in the U.S. Army during World War I. When the war ended, he worked his way through the University of Oregon. He played football and was elected to Phi Beta Kappa. He had the good fortune to marry the former Grace Edgington in 1924 and, in 1933, the Jordan family moved to a remote ranch below Hells Canyon on the Snake River. They lived in an old ranch house which Len Jordan rebuilt with his own hands. Grace Jordan wrote about their lives there in her book, "Home Below Hells Canyon." They moved to Grangeville, Idaho, in 1940, where he farmed and was in the automobile business.

Len Jordan's political career began when he was elected a State representative from Idaho County in 1947. He served as Idaho's Governor from 1950 to 1954. Following his term as Governor, he was appointed by President Eisenhower to head the U.S. delegation to the International Joint Commission. He helped negotiate agreements with Canada for the St. Lawrence Seaway, the Columbia River Basin Treaty Compact, and the Libby Dam. In the summer of 1962, he was appointed to the fill the vacancy created by the death of U.S. Senator Henry C. Dworshak, and that fall was elected to the balance of the term. In 1966, he was elected to a 6-year term. His work on the Interior Committee, particularly in the area of water resources, has

served as the cornerstone of a program of wise use and development of our region's water resources. He also served ably as a member of the Senate Finance Committee and as a member of the Select Committee on Standards and Conduct. In 1973, he chose to retire from the Senate, and he and Grace returned home to Idaho to live.

It has been for me a somewhat humbling experience to occupy the seat once held by a man of such great wisdom, experience, knowledge, and integrity. I have succeeded him in office; I could not take his place.

I think those who knew Len Jordan would agree that one of the most striking things about him was his unfailing and genuine kindness. He was a gentleman in every sense of the word. At the same time, he stood firmly for those things he knew were right—even against great odds.

Perhaps that is the key to understanding the legacy Len Jordan left us. He did not seek elective office for the power and accolades of holding office. His wife called him, "the unintentional Senator" in the book she wrote about their life in Washington. Rather, he ran for office because he saw things he wanted to change—things he wanted to make better, and he knew the responsibility was his to set about getting them done. He was in the best sense a perfect example of the citizen legislator.

When President Eisenhower, paraphrasing de Tocqueville, in speaking of the greatness of our country, said that America is not good because it is great, but great because it is good, it may well have been with a Len Jordan in mind. The truth of the power of that goodness and kindness of spirit is perhaps demonstrated by the genuine love and affection the people from my State—from all walks of life and all political shapes and sizes—will always have for Len Jordan and his dear and lovely partner, Grace. We all shall miss him, and his counsel, and his friendship. I shall in particular.

I know all the Members of the Senate join me in sending our wishes to his wife and family. While I am sure only time can comfort the loss of a husband, a father, and a grandfather, it may help, I hope, to know that his passing can be rightly seen by a grateful Nation not as an end, but as a completion of an exemplary and productive life. He was not an ordinary man. He was the best.

Mr. President, I ask unanimous consent that the editorial published in the Idaho Statesman on Senator Jordan be printed at this point in the RECORD. I also ask unanimous consent that editorials in the Idaho State Journal and the Aberdeen Times be printed in the RECORD.

There being no objection, the materials were ordered to be printed in the RECORD, as follows:

[From the Idaho Stateman, July 2, 1983]

SENATOR JORDAN—A MODERATE VOICE

Len Jordan, the former Idaho governor and U.S. senator who died Thursday at the age of 84, commanded respect.

He was a man who did what he thought was right regardless of the political pressure his decisions put him under.

Jordan wasn't one of those professional politicians who spend their whole lives at the public trough. A country boy, he spent most of his first 40 years working close to the land, first as a laborer and cowboy, then as a ranch foreman, then (during the Depression) as the successful operator of his own sheep ranch in Hells Canyon.

He spent another 10 years farming and establishing a variety of successful businesses at Grangeville.

Not until he was almost 50 did Jordan, a reluctant politician, seriously consider public office. In 1946, angry about the way the Legislature mixed politics and road construction, he ran for the Idaho House and won.

He was to pursue the road issue for more than half a decade before—as governor—he succeeded in establishing the Idaho Highway Board, which put the matter of road construction on a less political basis.

As governor and later as a senator, Jordan proved himself a man of foresight. His role as a conservationist is a case in point. He fought—and prevailed—against the construction of the high Hells Canyon Dam, but defended other Snake River development because he considered the Snake to be a "working river."

Yet he fought just as hard for wild and scenic rivers legislation to protect such streams as the Salmon and the Clearwater.

He exhibited his pragmatism in other ways, too. As a moderate-to-conservative Republican, Jordan sat with the minority throughout his 10 years as senator, but learned to work constructively with the Democrats and with Idaho's Democratic Sen. Frank Church in particular. Upon Jordan's retirement in 1972, Church called their relationship an "effective partnership." "We have been able to find common ground," Church said, "and this has yielded terrific dividends for Idaho."

As friend and political confidant William S. Campbell said of Jordan, "He wasn't the ordinary run of politician."

[From the Idaho State Journal, July 6, 1983]

LEN JORDAN

Not long before Len Jordan retired from the U.S. Senate, the alumni at Idaho State University held a reception for him. Those officiating read testimonial letters from then-President Nixon, then-Sen. Frank Church, then-Senate Majority Leader Mike Mansfield and others.

Jordan was, unlike Church or Mansfield, a Republican Senator, and he had often broken with Nixon's policies, particularly on Vietnam. Such testimonial letters are not always full of genuine thoughts. In Jordan's case, however, they probably were. He earned their respect.

Jordan was a rare example of the kind of individual politics can sometimes attract: a thoughtful man, concerned about society, who enters the political arena to do a job, to help his state and community, and not to build a career or simply push a philosophy.

There are not many like that, and Jordan's passing last week left Idaho poorer for having one less.

Jordan was a rancher, "an ordinary type of guy," as he liked to say, who thoroughly enjoyed the Idaho countryside. After serving in the Idaho Legislature and for one term as governor, he returned home. He didn't return to elective office (though he served on a national commission in the interim) for seven more years, when he was asked in 1962 if he would serve in the U.S. Senate.

Many senators catch "Potomac fever" and wouldn't think of returning home; Jordan voluntarily retired (he could probably have easily won another term) in 1972.

Throughout his public service, Jordan was concerned with the practical issues of Idaho, the real needs of the state. In the late 1940s and early 1950s, Idaho state government badly needed to move away from the spoils system and toward more efficient government. Len Jordan, more than anyone else, brought that to the state and set the stage for further improvements made by later governors. The state also badly needed to establish a solid natural resources policy, and much of the common sense in the state's natural resource policy today can be traced to his efforts.

Jordan exemplified what a citizen-legislator can be, and his career should serve as an example for those who would follow in his footsteps.

[From the Aberdeen Times, July 6, 1983]

GREATEST STATESMAN DIES

Idaho lost one of its greatest statesmen last Thursday night. Former governor and U.S. Senator Len B. Jordan died after battling cancer, coronary disease and finally a stroke. He was 84 years old.

Jordan was the type of politician neither party could have complained about. A Republican, he won his first elected office in strongly Democratic northern Idaho.

His reform of Idaho's state government and his battles to protect Idaho's natural resources helped Idaho become the great state it is.

And like the state he represented, Jordan was also a great man. If only there were more men like him.

Mr. BAKER. Mr. President, my statement earlier today at the opening of the Senate in respect to the death of our former colleague, Len Jordan, will be expanded in a statement I will make later. I am sure other Senators will speak on this subject.

ORDER FOR RECORD TO REMAIN OPEN AND STATEMENTS REGARDING FORMER SENATOR JORDAN TO BE PUBLISHED AS A SENATE DOCUMENT

Mr. BAKER. Mr. President, I ask unanimous consent that for a period of 10 days from today, the RECORD remain open for remarks on the life and career and the passing of former Senator Len Jordan.

I further ask unanimous consent, Mr. President, that the statements which are made be gathered up, bound together, and published as a Senate document.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, there is one nomination on today's calendar that I would like to take up, if the minority leader is prepared. There are other nominations that are cleared, but it is late. If there is no great urgency about it, I prefer to do those in the morning when we convene.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I now ask that the Senate go into executive session for the purpose of considering Calendar Order No. 225, the nomination of Ford Barney Ford, of California, to be Under Secretary of Labor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The nomination will be stated.

DEPARTMENT OF LABOR

The bill clerk read the nomination of Ford Barney Ford, of California, to be Under Secretary of Labor.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I take pleasure in supporting this nomination. Mr. Ford and I were together yesterday in West Virginia where we joined in the dedication of the Dallas Pike facility in Ohio County, a very important facility which will test and certify mine health and safety equipment.

We then went to Marshall County and went underground in the Consolidated Coal Co.'s Shoemaker coal mine. We were underground for a couple of hours, traveling between 3 and 4 miles, where we witnessed the operation of the continuous miner, and other modern machinery, and saw long wall mining, in a mine where I believe there has been no fatality in the last 3 years. The company operates an excellent safety program there. The coal miners who work there are to be congratulated on their careful approach to their hazardous work.

I felt that Mr. Ford made a fine impression on those who were present—the miners and people in management. I compliment the management at the mine and, as I have already said, the miners.

I am very appreciative of the fact that Mr. Ford visited West Virginia yesterday, and for that reason, I wanted to speak up in his behalf on the occasion of the Senate's confirmation of his nomination. I urge that there be no objection to the confirmation.

I have a feeling that Mr. Ford will do an excellent job. He shows a great deal of compassion, interest, and dedication; and I have the feeling that he will acquit himself admirably in the position to which he is about to be confirmed.

I thank the majority leader for calling up the nomination.

The PRESIDING OFFICER. The question is on the confirmation of the nomination.

The nomination was confirmed.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified that the Senate has given its consent to this nomination.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

ORDER OF PROCEDURE

Mr. BAKER. Mr. President, there is a possibility that we can take up one other item that we had thought was cleared for action by unanimous consent at this time. I believe two Senators are interested in this subject.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 11 A.M. TOMORROW

Mr. BAKER. Mr. President, the time for the transaction of routine morning business has expired. It does not appear that there is anything further the Senate can address this evening.

I move, in accordance with the order previously entered, that the Senate now stand in recess until the hour of 11 a.m. tomorrow.

The motion was agreed to; and at 7:52 p.m. the Senate recessed until Wednesday, July 13, 1983, at 11 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate July 12, 1983:

DEPARTMENT OF LABOR

Ford Barney Ford, of California, to be Under Secretary of Labor.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.